PUBLIC DOCUMENTS

OF THE

STATE OF MAINE

BEING THE

REPORTS

OF THE VARIOUS

PUBLIC OFFICERS
DEPARTMENTS AND
INSTITUTIONS

FOR THE TWO YEARS

JULY 1, 1928 - JUNE 30, 1930

STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

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for the calendar years

1929-1930

ATTORNEYS GENERAL OF MAINE, 1820-1930

Erastus Foote, Wiscasset	1820
Jonathan P. Rogers, Bangor	1832
Nathan Clifford, Newfield	1834
Daniel Goodenow, Alfred	1838
Stephen Emery, Paris	1839
Daniel Goodenow, Alfred	1841
Otis L. Bridges, Calais	1842
W. B. S. Moor, Waterville	1844
Samuel H. Blake, Bangor	1848
Henry Tallman, Bath	1849
George Evans, Portland	1853
John S. Abbott, Norridgewock	1855
George Evans, Portland	1856
Nathan D. Appleton, Alfred	1857
G. W. Ingersoll, Bangor (died)	1860
J. H. Drummond, Portland	1860
John A. Peters, Bangor	1864
William P. Frye, Lewiston	1867
Thomas B. Reed, Portland	1870
Harris M. Plaisted, Bangor	1873
Lucilius A. Emery, Ellsworth	1876
William H. McLellan, Belfast	1879
Henry B. Cleaves, Portland	1880
Orville D. Baker, Augusta	1885
Charles E. Littlefield, Rockland	1889
Frederick A. Powers, Houlton	1893
William T. Haines, Waterville	1897
George M. Seiders, Portland	1901
Hannibal E. Hamlin, Ellsworth	1905
Warren C. Philbrook, Waterville	1909
William R. Pattangall, Waterville	1911
Scott Wilson, Portland	1913
William R. Pattangall, Augusta	1915
Guy H. Sturgis, Portland	1917
Ransford W. Shaw, Houlton	1921
Raymond Fellows, Bangor	1925
Clement F. Robinson, Portland	1929

DEPUTY ATTORNEYS GENERAL

Fred F. Lawrence, Skowhegan	1919
William H. Fisher, Augusta	1921
Clement F. Robinson, Portland	1924
Sanford L. Fogg, Augusta	1925

ASSISTANT ATTORNEYS GENERAL

Warren C. Philbrook, Waterville	1905
Charles P. Barnes, Norway	1909
Harold H. Murchie, Calais	1913
Roscoe T. Holt, Portland	1914
Oscar H. Dunbar, Jonesport	1915
Franklin Fisher, Lewiston	1917
Philip D. Stubbs, Strong	1921
Leroy R. Folsom, Norridgewock	1929

LIST OF COUNTY ATTORNEYS BY COUNTIES AND ADDRESS

Terms Expiring December 31, 1930.

Androscoggin		Fred H. Lancaster	Auburn
"	Asst.	Hercules E. Belleau	Lewiston
Aroostook		J. Frederic Burns	Houlton
Cumberland		Ralph M. Ingalls	Portland
"	Asst.	Walter M. Tapley, Jr.	Portland
Franklin		Carll N. Fenderson	Farmington
Hancock		William B. Blaisdell	Sullivan
Kennebec		Frank E. Southard	Augusta
Knox		Leonard R. Campbell	Rockland
Lincoln		Weston M. Hilton	Damariscotta
Oxford		William J. Flanagan	Rumford
Penobscot		Albert G. Averill	Old Town
Piscataquis		Jerome B. Clark	Milo
Sagadahoc		Ralph O. Dale	Bath
Somerset		Thomas A. Anderson	Pittsfield
Waldo		Clyde R. Chapman	Belfast
Washington		Herbert J. Dudley	Calais
York		Ralph W. Hawkes	York

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STATE OF MAINE

Department of the Attorney General.

Augusta, December 31, 1930

To the Governor and Council of the State of Maine:

The Revised Statutes of the State, as well as time-honored custom, require that the Attorney General should make a biennial report of the official business done by this department, incorporating therein a summary of the annual reports made to him by the several county attorneys.

Accordingly, I am submitting herewith my report for the years 1929 and 1930.

CLEMENT F. ROBINSON,
Attorney General.

REPORT

THE OFFICE OF THE ATTORNEY GENERAL

As a preliminary to outlining the activities of the department during the period, a brief summary of the nature of the office may be helpful. It has existed since the founding of the state in 1820. Many of the statutes defining the duties of the Attorney General are word for word the same as those in Massachusetts, so that it may undoubtedly be said that the general nature and powers of the office of the Attorney General in this state are substantially the same as those of the Attorney General of Massachusetts, carefully outlined by the Supreme Judicial Court of Massachusetts in *Commonwealth v. Kozlowsky*, 238 Mass. 379 (1921), where the court speaks of the office as,

"One of the institutions of the commonwealth brought by the early settlers to these shores,"

its functions constituting,

"A part of that body of common law generally recognized as a part of our jurisprudence."

The Massachusetts court goes on to say that,

"It often has been recognized that the powers of the Attorney General are not circumscribed by any statute, but that he is clothed with certain common law faculties appurtenant to the office."

The statutes in that state,

"Do not constrict his general authority existing from early times,"

but continue the supremacy of the Attorney General as the chief law officer of the Commonwealth.

The Massachusetts court quotes with approval a Minnesota case which states that,

"The office of Attorney General has existed from an early period, both in England and in this country, and is vested by the common law with a great variety of duties in the administration of the government. The duties are so numerous and varied that it has not been the policy of the Legislatures of the States of this country to attempt specifically to enumerate them. Where the question has come up for consideration, it is generally held that the office is clothed, in addition to the duties expressly defined by statute, with all the powers pertaining thereto at the common law. . . . . From this it follows that, as the chief law officer of the State, he may, in the absence of some express legislative restriction to the contrary, exercise all such power and authority as public interests may from time to time require. He may institute, conduct, and maintain all such suits and proceedings as he deems necessary for the enforcement of the laws of the State, the preservation of order, and the protection of public rights."

Until 1855 the Attorney General was appointed by the Governor and Council. In that year by constitutional amendment the present method of election by the two Houses of the Legislature was adopted. In 1905 the duties of the office were to some extent consolidated and defined, and his salary was fixed at four thousand dollars, at which figure it has ever since remained. Prior to that time the salary had been one thousand dollars, but he had been allowed to retain certain fees which increased this salary several times over. By the law of 1905 he was allowed actual cash expenses in the performance of his official duties. This permitted him expenses away from his home office. The Legislature of 1923 changed this latter provision, and limited his expenses to those incurred in carrying on official duties away from the capitol.*

The powers and duties of the Attorney General are scattered through the statutes, but are principally comprised in sections 78 to 92 inclusive of Chapter 91 of the new revision. These duties may be classified in two general divisions, viz: civil and criminal.

The civil duties comprise his acting as counsel for the state and its various legislative and executive officers, boards and commissions, advising them regarding the law, and conducting litigation for the state; collecting inheritance taxes; acting (in an emergency or when occasion requires) as the representative of the people and the state in bringing delinquent

*See P. L. 1931, c. 94.

officials to book; and many routine duties such as approving certificates of incorporation, and bonds and contracts to which the state is a party, and overseeing the administration of the workmen's compensation law in its application to state employees.

On the criminal side, as the only prosecutor mentioned in the constitution or known to the common law, the duty of enforcing the criminal laws of the state is his, except in so far as statutes have vested county attorneys and other statutory officers with special responsibilities.

In carrying out the foregoing duties of the office I have, in accordance with the practice of my predecessors, attended at the State House throughout the Legislative session, and at least one day a week the rest of the year, centering much of my official activities at my private office in Portland. In this way more office space has been made available at the State House for the personnel of the department, the State has secured without expense the use of the stenographic force in my own office, and I have been available for conferences with attorneys and for carrying on the duties of the office in Portland.

This by no means indicates, however, that the Attorney General holds a part time office. As a matter of curiosity I have kept a record of the time spent on the duties of the office during the sixty-four days, (including nine Sundays and two holidays), prior to the drawing up of this report, and find it totals three hundred eighty hours. I think, therefore, that it can reasonably be said that the present incumbent of the office, like his predecessors, has been "on the job" even when not at the State House.

In carrying out my duties I have had the efficient assistance of a loyal office personnel. The Deputy Attorney General, Sanford L. Fogg, is peculiarly fitted for his position by his years of active practice as a leader at the bar and by his service in the same position during the term of my immediate predecessor. His able oversight of the work of the office at the State House from day to day could not be surpassed.

The Assistant Attorney General in charge of inheritance and estate taxes, Philip D. Stubbs, has now had an experience

of ten years in his position. There is no dissent in the current of approbation for his conduct of his office from judges of probate and members of the bar throughout the state with whom his duties bring him particularly into contact.

An attorney of such standing and experience as his is a necessity for the efficient collection of these taxes. This the authors of the recent state survey do not seem to have appreciated, in making their recommendation for a transfer of these functions to the new department of finance.

During my term I have, with the approval of the Governor and Council, designated Leroy R. Folsom as an Assistant Attorney General assigned to the Department of Public Welfare. This has proved to be a wise arrangement. I have also designated Richard Small of Portland to take charge of the administration of the Workmen's Compensation Act for state employees. His work has also been most efficient.

During the legislative session Herbert E. Foster of Winthrop was designated as legislative Assistant Attorney General, and he again proved effective in that position, as at previous sessions. Much of this work is to be taken over in the future by the new officer known as the Revisor.

The office sustained a great loss in the death early in my term of Miss L. Mae Richmond, who had been Chief Clerk for over twenty years. That position is now filled by Miss Edna Hoyt. In the Inheritance Tax Department Mrs. Helen F. Bragg is now serving as clerk; Miss Flora K. Pierce and Mrs. Marion S. Therrien having also had positions in that department during a great part of the term. Much of the stenographic work for the Attorney General has been done at Portland by Mrs. Florence Vest, his personal secretary.

The efficient manner in which the work of the office has been carried on by this personnel is itself an evidence of the high capabilities of the individuals, because throughout my term, as has been the case for a number of years, they have worked under exceedingly crowded office conditions. The five members of the regular staff work in a room eighteen feet square into which is crowded five desks and several stacks of filing cases. Certainly the Attorney General's department is one of the first which needs the benefit of increased accommodations for state departments.

The recommendation made in the recent state survey for a return to the method of selecting the Attorney General which is found in but two or three other states in the country, and which in Maine was supplanted by constitutional amendment in 1855, wholly fails to appreciate the functions of the office as a necessary check and balance on other offices. This aspect of the office under the fortunate auspices which have favored our state administration for many decades is a function which is rarely called into play. The Attorney General and the executive during my administration, as during that of my recent predecessors, have worked in continuous and very pleasant harmony. Nevertheless, for the protection of the people the independence of the Attorney General should be preserved, as it could not be if he were subject to appointment and dismissal by the executive.

The recommendations in the survey regarding the criminal functions of the office are absurdly inadequate. The Attorney General was from the first a prosecutor, and the administration of the criminal laws remains as one of the most important functions of his office.* The recommendation regarding the form of the Attorney General's report is, however, valuable, and in this report I am endeavoring to conform to it.

ASSOCIATION OF ATTORNEYS GENERAL

Attendance at the annual conferences of Attorneys General of the country, held just prior to the annual conference of the American Bar Association, has proved a valuable experience. The conference of 1929 was held at Memphis; of 1930 at Chicago.

The feature of the Memphis conference was an address by the retiring president of the association, Attorney General Saint of Louisiana. He brought out effectively the necessity of preserving the freedom of the office as a safeguard against a wilful executive. Attorney General McCall of Alabama was elected president for the ensuing year.

The feature of the Chicago conference was a paper by Attorney General Wilson of Wyoming on the functions of the

*None of these constitutional and statutory recommendations regarding the Attorney General's office were adopted by the Legislature of 1931.

Attorneys General of the country. On the basis of answers to a questionnaire sent out to every state in the country he analyzed most comprehensively the differing powers of the office. He was elected president for the coming year; the Attorney General of Maine was elected vice-president.

At the Chicago meeting the retiring president of the American Bar Association, Henry U. Sims, Esq., of Alabama, who as a member of the Commissioners on Uniform State Laws had been instrumental in drawing up and presenting to the states for adoption the uniform extradition law which Maine has adopted, appeared before the conference and asked the help of the Attorneys General in regard to two points of criticism of the uniform law which had been taken as the basis for a veto by the Governor of New York. The drafting of a uniform extradition law having been undertaken in the first instance on the suggestion of the Attorneys General of the country, the request seemed proper. A committee of five was appointed with the Attorney General of Maine as a Chairman, which has sent out a questionnaire to the various states. The result of this questionnaire is now being compiled, and will undoubtedly prove of value when reported to the Commissioners on Uniform Legislation. Personally, I am inclined to agree with the Governor in one of his criticisms, which is of an omission in the Act, but disagree with him in his other criticism, which is of a certain measure of discretion given to the courts.

The acquaintance with the other Attorneys General acquired through the conferences of the Association has proved practically valuable in several respects. At the conferences and through correspondence I have obtained valuable suggestions regarding the practical working out of problems which are not discussed in the books, and have been able to be of some slight assistance to some of the other states.

In order to assist the judges of our Superior Court in discussing a change of rules as to the order of final argument in jury trials, I sent out a questionnaire to the other members of the Association, and found that in the forty-two states whose Attorneys General replied, thirty-five have the rule of procedure which after consideration our Superior Court

adopted. By the previous practice in Maine and a few other states, the attorney for the defendant in a civil or criminal case spoke first; the attorney for the plaintiff or the state spoke last. By the new practice the attorney for the plaintiff or state speaks first, followed by the attorney for the defendant, and the first attorney then has a brief opportunity for rebuttal. The new rule takes effect January 1, 1931.

The Attorneys General of the New England states and the states along the Appalachian range were invited by the Attorney General of New York to meet in conference in New York in April, 1930. Pending Federal legislation regarding the Federal Water Power Commission was discussed, but no formal action taken.

INHERITANCE AND ESTATE TAXES

One of the most important features of the work of the office is the collection of death duties. The adoption of the reciprocal clause (P. L. 1927, Chapter 231; R. S. 1930, Chapter 77, Section 24), providing that an inheritance tax shall not be assessed in Maine on a non-resident estate if the decedent was a resident of a state which takes no such tax from a similar Maine decedent, has brought about the great reduction in the amount received from non-resident estates, which was anticipated by my predecessor on page 255 of his report. Prior to the passing of this act we had derived in this state much revenue from the taxation on the death of the non-resident shareholder of shares of stock in the large corporations whose organization under Maine laws has been a feature of the development of the corporations of the country.

It is doubtful, however, whether this revenue in any event would have continued. Early in 1930 the Supreme Court of the United States in two decisions,—(*Farmers Loan & Trust Company v. Minnesota*, 280 U. S. 204; *Baldwin, Executor v. Missouri*, 281 U. S. 586),—ruled that death duties on bonds, notes and bank deposits of deceased non-residents cannot be collected in a debtor state regardless of any reciprocal law. Justice McReynolds in giving the majority opinion in these cases flatly put it on the ground of double taxation. Justice

Holmes, who, together with Justices Brandeis and Stone, dissented, rather sharply characterized the majority opinion as judicial legislation.

Several cases are now pending in the Federal Supreme Court to test whether this ruling will be extended to corporate shares. It is quite possible that the court either will find a distinction permitting such shares to be doubly taxed, or will rule that the taxation of such shares should be limited not to the state where the decedent lived, but to the state where the corporation is incorporated. Because of the doubt in this respect we have in this state continued to collect such of these taxes on non-resident shares in Maine corporations as have become assessable during the year. In this respect we have followed the practice in the other states in the country as reported from time to time in the public press and ascertained by correspondence with them.

This problem of the taxing of the shares of a non-resident decedent in a Maine corporation has been the cause of litigation brought to the Law Court during the present administration in two cases, both involving the estate of Edward H. Haskell. Prior to the taking effect of the reciprocal clause Mr. Haskell died a resident of Massachusetts, leaving as a substantial portion of his estate shares of stock in the Great Northern Paper Company, a Maine corporation. From the assessment of a Maine inheritance tax on this property the estate appealed on the ground of an over-assessment, claiming that the exemptions had been improperly computed. This case was reported to the Law Court and argued at the December Law Term 1929.

After the argument and before the case had been decided, the decision of the United States Supreme Court in the Farmers' Loan & Trust Company case already referred to was announced, and by agreement the tax against the Haskell estate was compromised by dismissing the appeal and entering up the decree of the Probate Court for approximately thirty-four thousand dollars. Then in order to test, if possible, the applicability of the Federal Supreme Court decision to the lax levied in this case, the Haskell estate refused payment of the amount set by the decree, and a suit in debt was brought

against the estate for the amount of the tax. This case was reported to the Law Court, argued at the May Term 1930, and now stands on the docket pending decision.*

The tax revenue which has been lost on non-resident estates has to some extent been made up by the revenue received under the eighty per cent clause of the Federal estate tax, of which Maine took advantage by P. L. 1927, c. 116 (R. S. 1930, Chapter 77, Sections 27-31).

The following sums have been collected from estate and inheritance taxes during the calendar years 1929 and 1930:

1929	
Total Estate Taxes	$198,812.43
Total Resident Inheritance Taxes	631,511.09
Total Non-Resident Inheritance Taxes	147,802.74
Grand Total	$978,126.26
1930	
Total Estate Taxes	$315,037.57
Total Resident Inheritance Taxes	526,535.03
Total Non-Resident Inheritance Taxes	29,967.97
Grand Total	$871,540.57

A revision of the provisions of our law for collecting inheritance taxes is needed, and I recommend that the Legislature should consider this whole problem.†

In connection with these collections few serious controversies have arisen. Several questions as to the values of inheritances, as to liability for taxation, and as to domicil, which have come up have been resolved without litigation. There is pending at this time one case in which a question of domicil has been raised, which has held up payment to the State of a large amount of taxes claimed by the State, but it is expected that this controversy will be satisfactorily adjusted early in the coming year.‡

*Decision for the State, 130 Maine 123 (March, 1931). An appeal is being taken by the estate to the Supreme Court of the United States.

†Recess committee constituted by P. & S. L. 1931, c. 107.

‡$1,342,532.95 collected in this estate early in 1931. The largest succession tax yet collected in Maine on one estate.

A controversy is also pending with reference to the taxability under our inheritance tax law of shares owned by a Maine citizen in a Massachusetts real estate trust. Litigation in this controversy may become necessary.

EXCISE TAX

The Legislature of 1929 created a new tax to replace the property tax on motor vehicles. This tax, known as the excise tax on automobiles, is incorporated in the new revision as Chapter 12, Sections 90 to 99. As might be expected in the case of a tax law blocking out a new field, many questions have come up with regard to its administration. On many of these points the rulings of this department have been requested. Unofficial requests have come in from local assessors whose jurisdiction with reference to this class of property has been affected; from tax collectors who have been given the duty of collecting the tax; from the State Assessors who have a certain measure of oversight over local assessors, and from individual citizens.

Three official opinions have been given to the Board of State Assessors as follows:

Meaning of the expression "Maker's list price for the first or current year of model." (November 15, 1929).*

Application of the tax to non-residents. (January 8, 1930, opinion annexed).

Taxation of dealers' stocks in trade. (October 18, 1929, opinion annexed).

Other opinions may be summarized thus:

Residents of the Kittery Navy Yard are not exempt from the excise tax if they seek a Maine motor vehicle license. (Rear Admiral W. W. Phelps, Kittery, October 1, 1929; A. E. Gingrich, Fort Williams, November 1, 1929).

Taxation of motor vehicles by village corporations. (J. Bennett Pike, Bridgton, October 18, 1929; Walter L. Gray, So. Paris, January 14, 1930; I. R. Cyr, Fort Kent, April 2, 1930; Walter H. Burnell, Fryeburg, May 27, 1930-June 6, 1930).

Selectmen cannot designate the collector. (L. L. Taylor, Farmington, October 21, 1929).

*See P. L. 1931, c. 215, 223.

"Motor vehicle" as distinguished from appurtenance or appliance. (Grover Welch, Westbrook, November 1, 1929).

Payment must be in the town where the owner resides. (F. R. Ames, Farmingdale, December 12, 1929).

Procedure when registration is delayed. (Captain Joseph F. Young, Augusta, January 22, 1930).

No statutory limitation on application of excise tax funds. (H. F. Blackwood, Pembroke, January 31, 1930).

Double taxation under the excise tax law; taxation of dealers' cars. (E. J. Conquest, Bangor, March 22, 1930-April 14, 1930).

Property taxation of automobiles; no limit on application of fund collected; payment of tax for registration year exempts from property taxation during the same calendar year; abatements. (George F. Bryant, Bridgton, April 10, 1930; Alden Chase, Bryant's Pond, April 10, 1930; W. H. McIntire, Plymouth, December 11, 1930).

Application of excise tax to non-residents. (Alden Chase, Bryant's Pond, August 22, 1930).

No special provision regarding outside trucks working on state road construction. (Sterling Motor Truck Co., Portland, April 7, 1930).

Well drilling outfits being tractors are not taxable. (George B. Roberts, Brooks, March 11, 1930).

Taxation of stocks in trade. (Abraham Etscovitz, Fort Kent, April 7, 1930).

Credits for tax paid: the person exchanging cars in September pays one-third tax and gets full rebate; paying after October 1st pays one-third tax, gets one-third rebate. (C. E. Millett, Bangor, April 22, 1930-April 26, 1930; R. J. Philbrook, Rockland, September 12, 1930).

Residents of unorganized townships must pay in an adjacent town or city. (C. E. Millett, Bangor, June 9, 1930; A. T. H. Bloxan, Long Pond, May 16, 1930).

Improper to refuse acceptance of excise tax because previous property tax is unpaid. (C. E. Millett, Bangor, February 11, 1930).

GASOLINE TAX

The gasoline tax is collected by the State Auditor, with the assistance of the Attorney General through Louis Lachance, Jr., as a special investigator.

Mr. Lachance, originally appointed in a previous administration for the purpose of putting the collection of these taxes on a definite basis, has continued to prove most efficient. As a result of his cooperation with Mr. Reeves of the State Auditor's office, there are absolutely no delinquent gasoline taxes, a record unsurpassed in any other state.

Several questions have come before the Attorney General during this period. One trip to New York with Mr. Lachance and one to Providence with Mr. Lachance and Mr. Reeves were necessary in order to obtain from large gasoline distributors data which they had been unwilling to furnish regarding shipments into Maine. Considerable correspondence was carried on and one trip to Boston made with Mr. Lachance in connection with the attempt to diminish the sales of tax free gasoline at the Kittery Navy Yard to private persons for personal use.

During the legislative session an amendment to the gasoline tax law was drafted by this department, and passed, amplifying the definition of the word "distributor," and a law was drawn up and passed providing for the inspection of gasoline and motor oils by the State Auditor's department in connection with the collection of the gasoline tax. A few questions have arisen under this legislation.

The following opinions have been rendered:

No gasoline tax can be collected from Federal officials engaged in Federal business, and if so collected must be refunded. (State Auditor, Augusta, February 2, 1929).

Interstate shipments,—opinion annexed. (State Auditor, February 8, 1929).

Whether Delcogas is taxable is a question of fact,—probably not taxable. (State Auditor, February 13, 1930).

Allowable toleration for shrinkage.* (State Auditor, March 17, 1930).

A fuel practicable for use in airplanes, but not in automobiles, is taxable at four cents with three-cent rebate. (State Auditor, April 28, 1930).

"Tank car lots" means purchased in *tank cars.* A purchase through a pipe line is not a purchase in a "tank car lot." (State Auditor, June 6, 1930; September 15, 1930).†

Refund of gas tax on road machines used in highway construction. (State Auditor, November 14, 1930).

*See P. L. 1931, c. 190.
†See P. L. 1931, c. 115.

TAXATION—MISCELLANEOUS

Miscellaneous opinions on the subject of taxation have been these:

Method of assessing retaliatory tax on unauthorized insurance companies.* (State Assessors, Augusta, August 7, 1929).

Soldiers in the regular army are not tax exempt. (E. C. Roach, New Gloucester, January 7, 1930).

Flowage rights are not taxable. (State Assessors, January 17, 1930).

Boy Scout property is taxable. (State Assessors, March 19, 1930).

Wife of veteran divorced before his death is not a widow entitled to tax exemption. (George S. Crafts, Harpswell, September 11, 1930).

No tax during the assessable year on real estate belonging to a soldier's widow on April 1st and subsequently conveyed. (Thomas F. Locke, Biddeford, September 22, 1930).

HIGHWAYS

As attorney for the State Highway Commission, which carries on as much business annually as any of the largest corporations in the state, the Attorney General and his Deputy find an increasing proportion of their time concerned with the work of this department.

As usual, this department has drawn up condemnation proceedings and deeds in scores of cases where the Highway Department has taken land in laying out or straightening State Highways. The small proportion of these cases in which court action has been invoked by a dissatisfied land owner speaks well for the eminent fairness of the Commission in its land damage settlements.

In Knox County two cases, and in Washington County three cases, were tried before referees, and the awards certified to the Commission for payment. In Androscoggin County one case was tried to a jury, which after considering the case for seven hours brought in a verdict increasing the award from $575.00 to $944.00. The claimant asked for several thousand dollars.

In Cumberland County trial of one case was started with the jury and settled on the basis of the jury's finding which increased the award for the taking from $350.00 to $362.40,

*Tax repealed at Attorney General's suggestion. P. L. 1931, c. 175.

and added $841.67 as damages for the raising of the grade. For the state it was contended that this latter element of damages was inadmissible in the proceedings, and exceptions were taken to the Law Court, but the amount being a fair measure of the value of this item, the Commission authorized the withdrawing of the exceptions and a settlement on the basis of the verdict.

In another case in Cumberland County tried to a jury the award of $50.00 was increased by the jury to $100.00. The claimant asked $1500.00. Motion for new trial was filed by the claimant and after argument was overruled. Two other cases are now pending in Cumberland County referred by agreement to referees who will view the premises, hear the parties and award damages early in the coming year. One other case in Cumberland County was abandoned by the claimant because of defect in his proceedings. One case is pending in Penobscot County.

The amendment to the eminent domain statute by the Legislature of 1929 which divided between state and county the payment of land damages, had a salutary effect in some of the cases above mentioned.* The cooperation of the County Commissioners of Androscoggin and Cumberland Counties in preparing for the trial of those cases which have been appealed has been helpful and commendable. In connection with condemnation proceedings several opinions have been rendered defining the procedure. This procedure is at present obscure, and the whole condemnation statute should be redrafted.

Several bridge and highway crossing hearings have been held; among others with reference to Carmel; the "Tin Bridge," so-called, at Bangor; North Jay; and Veranda Street, Portland.

Only one claim for damages due to an alleged defect in a State Highway has come to the attention of this department. Under the law, suit in such cases is against the town, but the damages, if any, are paid by the state, and the state defends. In this case, originating in Oxford County, settlement was made for a nominal sum.

*Repealed, P. L. 1931 c. 261.

The Memorial Bridge between Kittery and Portsmouth belongs jointly to the States of Maine and New Hampshire, and the State of Maine through its Highway Commission bears half the expense of maintenance. Early in 1929 a barge moored to a wharf at Portsmouth broke loose and damaged the bridge to the extent of about $4500.00. Suit was brought in the Superior Court, Rockingham County, New Hampshire, jointly in behalf of the States of Maine and New Hampshire against the barge corporation, and the owner of the wharf, by the Attorneys General of the two states. On the day of the trial, December 10, 1930, the defendants consented to an entry of judgment against them for $4300.00.

In Bethel and Gilead where a question arose as to an overlapping of the state highway and the railroad right of way, an agreement was effected after several conferences with the railroad representatives, and deeds given the state which protect it in the use of the land within the location of the state highway.

During the session of the Legislature of 1929 the Attorney General aided in the investigation of the State Highway Commission brought on by a letter to the Governor from the Federal Bureau of Roads, calling attention to a shortage of cement in several contracts for the construction of state highway by the Bianchi corporation. The Attorney General assisted in drawing a joint resolution under which an investigating committee was appointed with Senator Spear as chairman. This committee held sessions for several weeks analogous to a Grand Jury investigation. The Attorney General, with the able assistance of Honorable Ralph M. Ingalls of Portland, selected by the committee as its attorney, produced and examined the witnesses, and aided in the drawing up of the committee's unanimous report on the basis of which certain legislation changing the constitution of the State Highway Commission was adopted by the Legislature as an emergency measure shortly before adjournment.

Subsequently, the Attorney General pressed the claim of the state against the Bianchis, and represented the state in connection with the claim of the Federal Government against the state by reason of the fact that this shortage developed on a Federal aid highway.

Several conferences with the Federal Bureau of Roads at Washington became necessary, and many conferences with the attorneys for the Bianchis. Eventually, with the approval of the Governor and Council, the claim of the state against the Bianchis was compromised by the payment from the Bianchis to the state of fifteen thousand dollars, an amount somewhat in excess of the value of the missing cement. The claim of the Federal Government against the state has not been pressed.

The award of damages in favor of the Waukeag Ferry Association for its loss suffered by reason of the construction of the Hancock-Sullivan bridge having been set aside by the Law Court, the claim was further litigated and an award of $16,418.00 was made, and settlement effected on that basis by the Governor and Council in accordance with the recommendation of the Attorney General under date of October 18, 1929.

Other matters of interest on which departmental opinions have been given are these:

In the Bridge Act "construction" means actual work at the location of the bridge, but completed arrangements prior to the passage of the amendment to the Bridge Act are not thereby invalidated. (State Highway Commission, Augusta, April 11, 1929-April 24, 1929).

Necessity of providing street railroad location outside public way. (Opinion annexed). (State Highway commission, December 13, 1929).

Waldo-Hancock Bridge,—payment from bond issue of span from Verona Island to Bucksport, doubtful; bridge when constructed to be a toll bridge until bond issue is retired. (Highway Commission, January 23, 1930; August 29, 1930).*

Highway Commission has authority to restrict loads over improved state, state aid and third class highways. (Highway Commission, Mar. 20, 1930).

Expense of changing the tracks of a public utility falls on the utility. (Highway Commission, February 27, 1930).

Encroachments on highways, and obstructions of highways. (Highway Commission, May 19, 1930; June 3, 1930; August 9, 1930).

Supplemental agreements, bonding company liable if notified. (Highway Commission, June 5, 1930).

Highway Commission has no jurisdiction over permits for pipes in the highway. (Highway Commission, October 14, 1930).

Expense of culverts. (Opinion annexed). (Highway Commission, October 17, 1930).

Town signs, toll roads. (Highway Commission, December 5, 8, 1930).

*See P. & S. L. 1931, c. 112.

MOTOR VEHICLES

Opinions regarding the licensing of motor vehicles and their use of the highway have been given as follows:

There is no limit on the number of trailers. (State Highway Commission, Augusta, October 3, 1930).

A single party entering the state with several busses must pay full license on all except the first bus. (A. L. T. Cummings, Portland, July 13, 1929).

Speed limits. (Opinion annexed). (State Highway Police, Augusta, July 1, 1929).

Commercial vehicles. (State Highway Police, February 26, 1930).

Failure of a driver to report an accident as required by P. L. 1929, c. 357, Sec. 1, is not a criminal offense. (State Highway Police, September 25, 1929).

State is not liable for highway accidents in compact portions of large towns. (State Highway Commission, September 18, 1929).

If not hauling or carrying loads, tractors need not be registered in order to pass over public highways. (L. C. Stearns, Bangor, December 16, 1929).

A mechanic employed to deliver a car should have a chauffeur's license; meaning of the term "operating for hire." (Myron D. Kidder, Portland, January 18, 1930; J. W. Randlett, Richmond, July 9, 1930).

WORKMEN'S COMPENSATION FOR STATE EMPLOYEES

On my taking office this Department took over the administration of the Workmen's Compensation Act with reference to state employees, which during the previous administration had been otherwise handled. With the approval of the Governor and Council, Richard Small, Esq., of Portland, an attorney of experience in workmen's compensation cases, was placed in charge of this division of the department. This work he has done most efficiently, centering the details in the office of the State Highway Commission with Miss Eloise Lawrence competently serving as compensation clerk.

It was found that the system for handling these cases while generally well planned, yet had defects of detail which required emendation; and that there was considerable misunderstanding throughout the various departments of the state as to the law and the procedure.

New forms were drafted and a circular letter was sent out to the various departments, a copy of which is annexed to this report; conferences were had by Mr. Small and the Attorney General with various department heads, chief clerks and the State Auditor, and the system has been functioning with notable smoothness, efficiency and satisfaction. Employees have received promptly payments to which they were properly entitled for compensable injuries, and proper medical expenses have been paid; but on the other hand first aid and safety first expedients have been put into operation, and the prompt reporting of accidents has kept disabilities at a minimum. The careful checking up on claims has warded off overpayments. This has been done at an expense of administration less than the expense in the past, and with total payments from the state treasury of an amount which any private business organization would consider a low ratio to the wage scale.

Mr. Small makes the following report under date of December 1, 1930:

"Hon. Clement F. Robinson
Attorney General
Augusta, Maine
"Dear Mr. Robinson:

I wish to report on my work in connection with the Workmen's Compensation cases handled for the State of Maine during the calendar years 1929 and 1930 to date:

	1929	1930
"1. Number of accidents in State Highway Department	275	350
Number of accidents in all other Departments	27	18
Total number of accidents	302	368

"You will note that the number of accidents in 1930 in the State Highway Department has increased seventy-five in number over 1929, an increase of about twenty-five per cent. There have been no death cases in that Department so far this year, a very remarkable record.

"2.	1929	1930-Dec. 1
Total payments in accident cases	$45,197.35	$46,399.64
State Highway Department	43,670.84	42,717.10
All other Departments	1,526.51	3,682.54

"From the 1930 total for State Highway Department cases should be deducted about $2,200.00, which represents checks drawn but not sent and which may be cancelled. In addition, I have collected on

subrogation claim in the Charles W. Scott case $250.00, and am in process of collecting $1,544.00 in the Peter Petkus case. Both of these were Highway Department cases. The net cost to the Highway Department, therefore, will be reduced approximately $4,000 from the figure shown for 1930.

"It is anticipated that it will take $5,000.00 to complete payments to the end of the calendar year on Highway Department cases.

"I am told that the total amount of the payroll for employees of the State Highway Department subject to compensation in cases of accident will be between $3,500,000.00 and $4,000,000.00 for 1930. The total number of employees of the State Highway Department for 1930 is approximately 12,000.

"3. Number of hearings:

"In 1929 I appeared before the Industrial Accident Commission fifty-three times on hearings. In 1930, to date, I have appeared fifty-nine times, an increase over 1929 of approximately twelve per cent.

"In 1929 I investigated seventy-nine cases and in 1930 I investigated ninety-one cases, an increase of about fifteen per cent.

"There was one law court case in 1929 and one in 1930.

"Yours very truly,

"Richard Small."

In connection with Mr. Small's report some further figures may be interesting.

A tabulation from the State Auditor's office shows the following figures for the period just prior to the present administration:

EXPENDITURES ACCOUNT OF COMPENSATION FOR INJURIES TO EMPLOYEES FOR PERIODS OF JULY 1, 1927 TO JUNE 30, 1928 AND JULY 1, 1928 TO DEC. 31, 1928

	July 1, 1927 to June 30, 1928		July 1, 1928 to Dec. 31, 1928	
	Compensation	Medical, etc., Expense	Compensation	Medical, etc., Expense
Adjutant General	$583.28	$893.71	$168.25	$62.65
Commissioner Agriculture	251.89	40.00	282.98	358.40
Dept. Public Welfare	262.49	460.80	64.14	279.80
Directors Port Portland	63.03	4.00		
Executive Department		63.75		
Inland Fish & Game Com'r.	671.50	34.50	449.55	
State Highway Police	401.12	1,045.40		897.93
Supt. Public Buildings		12.00		
State Highway Commission	23,363.60	17,379.41	16,748.05	6,855.75
Augusta State Hospital	46.00			
Bangor State Hospital	370.23		218.85	161.00
Maine School for Deaf	200.21	37.50		
Maine State Prison	771.55		926.98	226.20
Northern Maine Sanatorium	42.49			
State Reformatory for Men	420.13			
State Reformatory for Women			94.22	
State School for Boys		124.00		
State School for Girls	636.35	5.00		24.00
Western Maine Sanatorium			273.24	
Totals	$28,143.87	$20,100.07	$19,226.26	$8,865.73

SUMMARY

Expenditures from July 1, 1927 to June 30, 1928 ..... $48,243.94
Expenditures from July 1, 1928 to Dec. 31, 1928 ..... $28,091.99

GROWTH OF PAYMENTS IN HIGHWAY DEPARTMENT

The growth of payments in the Highway Department, which is, of course, the most extended business enterprise carried on by the state, is shown by the following figures covering compensation for employees and medical expense:

Year	*No. of new cases*	*Cost*
1918	21	$1,452.80
1919	32	1,975.96
1920	44	5,040.83
1921	92	7,911.08
1922	68	10,993.24
1923	76	13,932.77
1924	97	17,707.35
1925	146	26,249.42
1926	153	32,766.71
1927	167	39,584.60
1928	243	45,920.30
1929	275	43,670.84
1930 to Dec. 1	350	42,717.10
	Total	$289,923.00

(The figures for 1930 are subject to deductions mentioned in Mr. Small's report, and these figures represent sums actually paid from the State Treasury during the years listed.)

ACTIVE CASES

Cases on which compensation is being paid in accordance with outstanding agreements or Commission decrees, and cases in which medical bills are unpaid, are carried as active cases. Other cases closed by payment of such compensation or medical bills are, however, sometimes reinstated on a claim of recurring disability or permanent impairment. Taking the active cases as a basis of comparison the figures are as follows:

ACTIVE CASES PENDING JANUARY 1, 1929

Highway Department	55
Other Departments	7
Total	62

The following is a tabulation of the State Highway Department cases pending as active cases on December 1, 1930, the tabulation showing the year of origin of these active cases and the amount paid up to that date on these cases for compensation and other expenditures:

HIGHWAY DEPARTMENT ACTIVE CASES DEC. 1, 1930

Year	*No. of Cases*	*Compensation paid*	*Medical, etc., bills paid*
1925	1	$2,939.21	$ 43.00
1926	6	16,183.07	2,810.70
1927	2	4,371.04	969.15
1928	9	10,767.27	1,572.60
1929	15	8,166.71	3,851.25
1930	149	4,175.49	2,826.54
Totals.....	182	$46,602.79	$12,073.24

(Amounts paid to November 26, 1930).

Thirty or forty of these active cases merely await the payment of single items such as a doctor's bill, and will be closed out before the end of December, which is the month when the fewest cases originate and the most cases are closed.

The following is a similar tabulation of the active cases on December 1, 1930, in departments other than the Highway Department:

ACTIVE CASES IN OTHER DEPARTMENTS

Year	*No.*	*Compensation paid*	*Medical Bills*
1928	2	$1,715.00	$297.00
1929	2	1,548.00	29.00
1930	1	0	0
	5	$3,263.00	$326.00

(Amounts paid to November 26, 1930).

The following is a tabulation of the number of cases in the Highway Department closed each year from 1916 to date:

CLOSED CASES, HIGHWAY DEPARTMENT

Year	*Number of Cases*	*Year*	*Number of Cases*
1916	6	1924	97
1917	8	1925	145
1918	21	1926	146
1919	32	1927	164
1920	44	1928	236
1921	92	1929	260
1922	68	1930	201
1923	76		

All the above figures are careful approximations subject necessarily to slight corrections due to the practical difficulty of computing as of any one time or date a continuing series of transactions such as the handling of workmen's compensation cases necessarily is.

During the period, in connection with the State's workmen's compensation cases two decisions of the Industrial Accident Commission have been appealed to the Law Court as follows:

Frank W. Burridge's case—Appealed by the dependent widow to the Law Court from the opinion of the Industrial Accident Commission. The Industrial Accident Commission denied compensation on the ground that the death was not caused by any injury arising out of the employment. This case was argued before the Law Court at the June Term in Bangor in 1929, and opinion was handed down December 18, 1929, by the Law Court, in which the appeal was dismissed and decree below affirmed. (128 Me. 407).

Hiram Comstock—Fatal accident to an employee at the State Prison, in which an appeal was taken by the dependent widow, Ada Comstock, from the decision of the Industrial Accident Commission. The question at issue was the interpretation of the statutory limit for the payment of compensation, three hundred weeks having elapsed after the date of the injury. The appeal was dismissed and the decree below affirmed. (129 Me. 467).

Lump sum settlements with the approval of the Commission have been made in a number of old cases where the acci-

dent and period of disability are doubtful, and a lump sum settlement would enable the employee to purchase a farm or other permanent capital as a means of livelihood. These lump sum payments, of course, increase the total payment for the current year, but in the long run are calculated as an approximation of the total payments probably apportionable to the case.

As a matter of principle and bookkeeping, it may be true that the state should make an appropriation for the payment of workmen's compensation. The figures which I have given above show that somewhere between $50,000 and $60,000 per year is the sum that would be required. Workmen's compensation payments for state employees were originally taken from the contingent fund, but are now chargeable against the appropriation for salaries and fees in the employees' department. This works no practical hardship in the case of the State Highway Commission where most accidents occur. That department has a continuing appropriation and a budget for wages large enough to absorb the workmen's compensation cases as an incident. In the other departments, however, where appropriations lapse with the fiscal year, this is not true. Moreover, in those departments a serious accident or a catastrophe involving several employees makes a disproportionate inroad on the salary appropriation, and may require going into the contingent fund for a deficit. In effect, each department is now a self-insurer with all the financial disadvantages that are entailed thereby. One suggested advantage of the present system is that it encourages department heads to keep a check on their disabled employees, but this function is effectively cared for by Mr. Small and the Industrial Accident Commission. I understand that the Industrial Accident Commission agrees with me that the change of system with reference to the fund from which these payments are to be made is advisable, at least in other departments than the State Highway Commission.

Questions which have arisen requiring a legal opinion are these: First, that injuries to employees on second-class

highways are compensable by the state; secondly as to the fund from which certain payments are to be made.

(Opinions to the State Auditor, May 29, 1929, June 6, 1929 and July 12, 1930).

PUBLIC UTILITIES COMMISSION

Two important litigated matters in behalf of the Commission have arisen during my term.

The first is the so-called "bond discount" case. On a petition by the Central Maine Power Company after hearing the testimony and considering a carefully drawn written argument presented by the company, the Commission ruled against the request of the company for the right to issue at par shares of common stock to the same amount as the outstanding amount of certain notes payable. These notes payable originated as an offset to a shortage of cash assets which occurred when authorized bond issues were necessarily sold at a discount, one thousand dollars' worth of authorized bonds producing, for instance, $995.00 in cash. The argument of the utility before the Commission was that the money received on these notes was expended for the same purpose as the net sum received from the sale of the bond issue. The Commission's ruling was that these notes represent in effect interest, and as such should not be capitalizable. The case was argued in the Law Court at the December Term 1930, an additional point being raised by the utility as to the power of the Commission to veto the stock issue under the statute.*

In October 1930 on a petition brought early in 1929 by inhabitants of Kittery and Eliot, customers of the Kittery Electric Light Company and the New Hamsphire Gas & Electric Company, the Commission after several hearings awarded certain reductions in rates to take effect November 25, 1930. On that date these utilities, through their counsel, Hon. Charles E. Gurney, filed a bill in equity in the United States District Court for the District of Maine against the Public Utilities Commission, seeking an injunction against the new rates on the ground that they would be confiscatory. A restraining order was granted ex parte and hearing on the

*Commission's decree affirmed, 1931. 130 Maine 28.

question of temporary injunction set for Wednesday, December 31, 1930, before Judge Wilson of the Circuit Court of Appeals and Judges Hale and Peters of the District Court.*

Hearing on the merits before Hon. Guy H. Sturgis, the Master appointed by the court will be the next step leading to the final determination of the case. In such a hearing it is the duty of the Master to determine the law and facts almost as if the case had never previously been tried. Valuations of properties must be submitted in detail to the Master, and all possible evidence adduced which will aid him in reporting to the court whether the rates fixed by the Commission yield a proper rate of return to the stockholders of the utility, so that they can be approved, or whether they must be set aside.

Litigation of this sort once started often continues for many months and even years. Hearings before the Master alone often last for many days. The expense upon the State for expert witnesses, and if necessary the aid of outside counsel expert in rate cases, in preparing the case for the Master, subsequently for the judges who pass on the Master's report, and eventually in the Supreme Court of the United States if the case is appealed to that court, mounts up fast.

I speak of this possibility because of the fact that there is no appropriation available in the Attorney General's Department or in the Public Utilities Commission adequate for sustaining this expense. The utilities in this case having invoked the aid of the Federal Court, and having called the official representatives of the State of Maine before that court, it is obvious that it is the duty of the Commission and of this department to fight the case to a finish. This is the first time in this jurisdiction that a utility has gone to the Federal Court for the purpose of questioning a decision of our Commission, although such procedure is not uncommon in some other sections of the country.

I anticipate that it may be necessary for the Legislature to consider the granting of a special appropriation not contemplated in the budget hearings for the purpose of carrying on the expense of this litigation.

*The temporary injunction was granted after a hearing in which the Attorney General represented the Commission.

Note. The Governor and Council subsequently authorized the appointment of Frank Fellows, Esq., of Bangor, as special counsel to assist the Attorney General in this case. The case was settled, on the eve of the hearing before the Master, by a consent decree dismissing the bill.

REFERENDA AND ELECTIONS

In connection with the petitions submitted to the Governor for referenda on certain laws passed by the Legislature of 1929, the Attorney General's Department aided the Governor in conducting a hearing requested by persons objecting to the referenda, and also advised with him regarding the law. In explanation of the decision of the Governor on the law and the facts against the referendum, an opinion was compiled under date of November 25, 1929, summarizing the law of the state regarding such referenda, which is hereto annexed.*

Evidence of fraud in the counting of ballots in the City of Lewiston on the referenda as to the export of power, which the Legislature had submitted to the people, having come to the attention of the Attorney General, the Grand Jury of Androscoggin County was called into special session in November, 1930, and the evidence presented by the county attorney and the Attorney General to the Grand Jury in a session of several days.

The Grand Jury found occasion to criticise the conduct of the election, but were unable to find sufficient evidence to justify an indictment against any person or persons. The report of the Grand Jury is annexed hereto.

Frederick P. Bonney of Rangeley defeated in the June primaries 1930 for nomination as the Republican candidate for Representative in Congress from the Second District, prepared and submitted nomination papers asking that his name be placed on the ballot under the designation "Republican Nomination Paper."

The Attorney General under date of July 22, 1930, at the request of the Secretary of State, filed with him the following ruling:

"With reference to the nomination papers filed by Frederick P. Bonney, as a candidate for Representative in Congress in the Second District, you inquire whether in my opinion 'Republican Nomination Paper' is a proper designation for a candidate to use under the law of this State. My answer is 'No.'

*See P. L. 1931, c. 181.

"In my opinion you may properly disregard these papers and omit Mr. Bonney's name from the official ballot.

"It seems to me that the three words, 'Republican Nomination Paper,' are legally insufficient as a party designation under R. S. Chap. 6, Sec. 32, because they tend to confuse the voter by their resemblance to the proper designation of papers circulated prior to a primary election by candidates seeking a place on the regular Republican primary ballot."

In accordance with this ruling the Secretary of State having excluded Mr. Bonney's name from the official ballot, Mr. Bonney brought before Chief Justice Pattangall of the Supreme Judicial Court a petition for mandamus.

At a hearing in which the Deputy Attorney General appeared in behalf of the Secretary of State, the petition was refused. The court said:

"The difficulty with the phrase in my mind,—'Republican Nomination Paper'—in the plain ordinary use of language, is that that is the designation of a document. 'Republican Nomination Paper' means a document—certainly it is not a declaration of principles. 'Republican Nomination Paper' does not declare political principles. I don't see how it can be construed to be the name of a party.

"It seems to me the petitioner fails in that particular, because he did not comply with the provision of statute which says the nomination paper shall, besides the name of the candidate, specify first the office to be nominated, and second the party or political principle which he represents, with not more than three words. I cannot conceive that this includes three meaningless words."

From this ruling Mr. Bonney took exceptions to the Law Court, and at the September Term 1930 the Attorney General filed a brief in behalf of the ruling. Mr. Bonney's attorney, however, failed to appear and the case was dismissed for lack of prosecution.

In connection with a recount of ballots by the Governor and Council subsequent to the June primaries, the Attorney General's office gave its assistance, and at the request of the Governor and Council filed one written opinion regarding the method of voting, which is hereto annexed. (July 16, 1930).

Other opinions regarding elections are mentioned later on in this report.

OFFICES AND OFFICERS

During the two years of my term I have had occasion a number of times to carry out the necessary functions of the office in investigating complaints against office holders of the state. A large proportion of these complaints resulted in giving the officer complained against a clean bill of health so that no action was necessary and no publicity followed. In several cases, however, the resignation of officers followed upon these investigations. In few of these instances was it necessary to make preparations for a formal hearing before the Governor and Council.

The death of the sheriff of Cumberland County raised the problem of the validity of the Act of the Legislature of 1929 which authorized the county attorney to take over the duties of the sheriff in such an emergency. There appeared to be no doubt of the propriety of the county attorney's taking this action. He was advised to that effect, and most efficiently carried out the duties of the office until the successor to the previous sheriff had been appointed and qualified.

A similar situation occurred and was worked out in the same way on the resignation of the sheriff of Kennebec County in August, 1930.

Other rulings regarding vacancies in office and the powers of officers were given as follows:

Hallowell Municipal Court,—it is doubtful whether the recorder continues in office after expiration of the judge's term. (To the Governor, April 7, 1930).

Clerk of Courts, Kennebec County, vacancy should be filled for the unexpired term. (To the Governor, June 12, 1930).

Selectmen,—vacancy does not need to be filled. (Arthur E. Johnson, Washington, November 1, 1930).

Trial justices in Knox County have no jurisdiction except where vacancy in Rockland Police Court or disqualification by interest. (Christopher S. Roberts, Esq., Rockland).

The term of office of the citizen appointed on the Maine Development Commission is three years. (Maine Development Commission, Mar. 27, 1929).

Incompatibility of office: membership on Waldo-Hancock Bridge Commission and in the Legislature compatible. (F. S. Blodgett, Bucksport, November 21, 1929).

State Warden and Representative in the Legislature incompatible. (H. D. Crie, Rockland, March 18, 1930).

Membership on town school board and town auditor probably incompatible. (R. M. Tukey, Damariscotta, April 7, 1930).

Membership on school committee and Representative to the Legislature compatible. (John C. Scates, Westbrook, October 3, 1930).

QUO WARRANTO, ETC.

In accordance with practice, several quo warranto proceedings have been brought in the name of the Attorney General for testing such matters as occupancy of offices and the organization of corporations. The principal proceeding of this sort was brought in the County of Hancock to test the validity of the referendum in that part of the Town of Hancock known as Marlboro, which the Legislature of 1929 set off as a part of the Town of Lamoine, subject to referendum. A hearing was held before Mr. Justice Dunn of the Supreme Judicial Court, and the quo warranto proceedings dismissed.*

CORPORATIONS

The duties of the department with reference to corporations occupy much of the time of the Deputy and the Chief Clerk. During the year 1929 three hundred ninety-seven certificates of incorporation of business corporations were approved; during 1930 three hundred forty-seven. During 1929 one hundred forty-four corporations were excused by the Attorney General from filing returns; during 1930, one hundred fifty-three.

Many certificates of incorporation of educational, charitable, religious and literary corporations were approved without fee, and several consolidations of business corporations examined and approved.

As usual, hundreds of letters were sent out each fall, notifying delinquent corporations of their neglect to file an annual return; and later on, hundreds of other letters to corporations whose franchise taxes were unpaid.

*See P. & S. L. 1931, c. 129.

MISCELLANEOUS DEPARTMENTAL MATTERS

DEPARTMENT OF AGRICULTURE

The Attorney General assisted in drafting the law regarding the inspection of sardines which was passed by the Legislature of 1929, Public Laws Chapter 304. Subsequent to the passage of the Act the assistance of this department was made available to the Department of Agriculture in carrying out the provisions of the Act, four sardine factories having, after a warning from the department, packed sardines which were believed to be unfit for food. Four hearings were held in various parts of the state with reference to suspending the licenses of these factories. After investigation and many conferences, the apparent cause of pollution having in the meantime disappeared, the cases were satisfactorily disposed of by the Commissioner of Agriculture.

Among other matters in which assistance has been given the Department of Agriculture may be mentioned the administration of the dog law by the Sheep Specialist and by the State Auditor.

Other opinions are these:

The Commissioner of Inland Fisheries and Game may place a bounty on bears destroying sheep in certain locality. (C. H. Crawford, Augusta, August. 14, 1929).

Numbered admission tickets to a county fair with a lottery feature are illegal. (Commissioner of Agriculture, Augusta, August 28, 1929).

Offering a flat cash sum to exhibitors at a fair entitles the fair to a stipend. (Commissioner of Agriculture, July 5, 1930).

Plant quarantine—Power of the Commissioner. (Commissioner of Agriculture, July 8, 1930).

Rabbits are not domestic animals. (Commissioner of Agriculture, July 3, 1930). (State Auditor, November 7, 1930).

Rockland cannot appoint new sealer of weights and measures during the term of the present incumbent. (Commissioner of Agriculture January 1, 1930).

Meaning of the word "Creamery." (Commissioner of Agriculture, May 8, 1929; opinion annexed).

Milk bottles. (Commissioner of Agriculture, April 28, 1930; opinion annexed).

AUDITOR

The following opinions have been filed:

Fines and forfeitures payable to the State under the motor vehicle law do not include fines in liquor cases. Forfeited bail is a forfeiture. Fines paid on complaints of persons other than highway officers belong to the county; fines and costs under the stop sign law belong to the county; both arrest and prosecution must be by said officer in order for the money to be payable to the State. (State Auditor, Augusta, February 19, 1929; March 12, 1929).*

Where payroll resolve and statutory pay differ the payroll resolve prevails. (State Auditor, April 16, 1929).

Appropriations against which workmen's compensation payments should be charged. (State Auditor, May 29, 1929; June 6, 1929).

Receipts in excess of $1,000,000 from estate and inheritance taxes go into the state trust funds. (State Auditor, August 5, 1930).

Retirement pay. (State Auditor, September 16, 1930).

Pay of state geologist. (State Auditor, October 14, 1929).

Statutory limitations to suit in debt for taxes. (State Auditor, December 11, 1930).

Conferences with the State Auditor on the problems of his office are frequent, and scores of title papers have been examined for him in connection with his duties in placing state loans on farm lands.

BANKING DEPARTMENT

Many conferences have been held with the Bank Commissioner regarding legislation, sales of securities under the Blue Sky Act, the condition of various institutions, and other departmental matters. The Attorney General and his Deputy have appeared at hearings before the Commissioner, have attended at conferences regarding legislative changes, and appeared before the Supreme Judicial Court in the matter of the consolidation of a savings bank with a national bank. Opinions have been filed as follows:

Bonds of the Alabama State Bridge Corporation are not legal for purchase by Maine savings banks. (Bank Commissioner, Augusta, June 18, 1929).

Joint deposits. (Bank Commissioner, September 6, 1929; September 25, 1929, February 12, 1930. Matthew Laughlin, Esq., Bangor, October 1, 1929).

*See P. L. 1931, c. 189, 252

Page & Shaw proposition not illegal. (Bank Commissioner, September 25, 1929).

Investors' Syndicate of Minnesota is not a banking business, but is a business similar to a loan and building association, and has unjust and inequitable features, authorizing the Bank Commissioner to object to it. (Bank Commissioner, January 3, 1930).

Issuing personal checks as a business on payment of a fee is of doubtful legality. (Bank Commissioner, January 17, 1930).

Small loan act inapplicable to insurance budget plan. (C. S. Chaplin, Portland, February 13, 1930).

Sale of stock of "First Industrial Bankers, Inc." may be licensed. (Bank Commissioner, February 13, 1930).

Proposed by-law of a loan and building association of doubtful legality. (Bank Commissioner, July 11, 1930).

Parco Plan is a loan and building association. (Bank Commissioner, July 29, 1930).

Liability of trustees of savings bank. (Bank Commissioner, November 15, 1930).

Partnership registrations under the Blue Sky Law. (Bank Commissioner, August 7, 1930).

DEPARTMENT OF EDUCATION

The following opinions may be mentioned:

Academy aid and tuition in unorganized townships. (State Auditor and State Commissioner of Education, September 17, 1929).

Calais Academy is entitled to per capita allowance. (Commissioner of Education, September 25, 1929).

Rumford School District,—emergency legislation required. (Commissioner of Education, October —, 1929).

Liability for injury to pupils being transported. (R. J. Libby, Augusta, April 17, 1930).

EXECUTIVE DEPARTMENT

In addition to conferences with and oral opinions given to the Governor and to the Governor and Council, the following written opinions may be mentioned:

Appropriation for Bangor Armory is the fourteenth item in the building program. (July 10, 1929).

Title to the auditorium property in Bangor. (May 28, 1929).

Appropriation for the Howard statue. (August 6, 1929).

Procedure in Norris v. State Highway Commission. (March 29, 1929).

The State may take out casualty insurance in mutual companies. (Opinion annexed, May 1, 1929).

The Governor may accept a gift from the Spellman Fund for paying the expense of a survey of the state government. (December 31, 1929).

Summary of laws regarding armories. (Deasy, Lynam & Rodick, Bar Harbor, February 25, 1930).

A road may be authorized across Fort Knox as an approach to the Waldo-Hancock Bridge. (June 24, 1930).

DEPARTMENT OF HEALTH

A question having arisen in York County with reference to the power of the State Department of Health to make and enforce plumbing regulations in the Town of Sanford, a complaint was issued against N. J. Prescott, and the facts reported to the Law Court. The Attorney General assisted the County Attorney in preparing the brief and the case for argument.

The Law Court in *State v. Prescott*, 129 Me. 239, ruled against the power of the Health Department in the premises. The effect of this decision was explained in rulings under dates of August 2 and August 7, 1930.

Subsequently, the Health Department put into operation a requirement that plans should be submitted to the department for approval. This power of the department having been questioned, a test complaint was issued against a plumber in Cumberland County.*

A controversy having arisen with reference to cross-connections in industrial plants, a satisfactory understanding was arrived at between the Health Department and the representatives of those who objected to the existing regulations, as a result of which new regulations were drawn up and submitted on the basis of the opinion of the Attorney General under date of August 11, 1930, hereto annexed.

A town cannot be punished for failure to prescribe sewerage and water supply regulations. (Commissioner of Health, Augusta, December 20, 1929).

The State Embalming Board Fund is a carrying fund. (Commissioner of Health, April 7, 1930).

*The power of the Department was subsequently defined by P. L. 1931, c. 235, and this criminal case dismissed.

The responsibility for the jail and its prisoners is on the sheriff rather than on the Health Department. (Commissioner of Health, September 24, 1929).

The Camp License Act does not supersede the Victualers' License Act; it does not apply to a camp where personal guests are entertained, even though expenses are shared. (Commissioner of Health, October 17, 18, 1929).

Typhoid fever is a contagious disease. (Commissioner of Health, January 30, 1929).

INLAND FISH AND GAME

In addition to many conferences with legislators, citizens and the officials of the department, with reference to the Inland Fish and Game laws, the Attorney General's office assisted the County Attorney of Franklin County in preparing his brief for the Law Court in the case of *State v. Pulsifer*, 129 Me. 423. The decision of the Law Court, filed December, 1 1930, confirmed the understanding of the two departments that the resident fishing license created by the Legislature of 1929 replaces the previous provision for a permanent registration on the payment of twenty-five cents. This ruling was made by the Attorney General's Department in a letter to W. H. Titus of Ellsworth, July 17, 1929.

Written opinions have been filed as follows:

A retired employee of the department receiving wages from the department cannot receive at the same time a pension. (Commissioner of Inland Fisheries and Game, Augusta, June 27, 1929).

Non-residents without guides may camp and kindle fires in unorganized or unincorporated townships if not engaged in hunting or fishing. (Maine Development Commission, Augusta, June 28, 1929).

A warrant is unnecessary for an arrest in a felony, but even an officer may not arrest for a misdemeanor without a warrant unless it is committed in his presence. (Commissioner of Inland Fisheries and Game, November 15, 1929; I. L. Smith, Houlton, December 11, 1929).

"Cultivated" land is substantially the same as tillage land. (A. L. Grover, Augusta, December 12, 1929).

The words "growing crops" in the resolve providing payment for damage done by wild animals do not include blueberry crops. (Commissioner of Inland Fisheries and Game, June 7, 1930).

P. L. 1929, Chapter 362, relating to smelts in Sebago Lake does not repeal previous legislation relating to smelt fishing in York County. (F. A. Hobbs, Alfred, June 7, 1930).

A license cannot be loaned. (Commissioner of Inland Fisheries and Game, July 3, 1930).

Duplicate licenses may be issued to replace those lost or destroyed. (Commissioner Inland Fisheries and Game, July 10, 1930).

Winchester focusing headlights Nos. 8921 and 89123 are illegal jack lights. (Commissioner Inland Fisheries and Game, July 10, 1930; August 27, 1930).

An offense against the Fish and Game Laws committed in Argyle may be tried in Lincoln. (C. W. Carney, Bradley, Maine, November 12, 1930).

There is a perpetual closed time on wild birds and wild animals in game sanctuaries. (Commissioner Inland Fisheries and Game, June 7, 1930).

INSURANCE DEPARTMENT

On October 21, 1930, an opinion was given the Insurance Commission that dividend participating policies in Casualty Companies are legal if the method of participation is sufficiently specified.

LABOR DEPARTMENT

Annexed hereto is an opinion filed with the Labor Commissioner October 18, 1929, regarding the 54-hour law. An opinion was filed April 25, 1929, as to the effect of trustee process on wages in certain cases.

PUBLIC WELFARE DEPARTMENT

Opinions as follows:

Committing offenders. (Governor, December 12, 1930).

Emancipation—opinion annexed. (Department, Augusta, December 9, 1930).

SEA AND SHORE FISHERIES

In addition to many conferences with the Director of Sea and Shore Fisheries, the following opinions were filed:

Occasional purchasers of lobsters for personal consumption are not required to obtain a license. (H. D. Crie, Director, July 2, 1929).

The revocation of a lobster license under P. L. 1919, Chapter 184, Sec. 20, is wiped out by P. L. 1929, Chapter 212. (H. D. Crie, June 25, 1929).

The Commission has no power to make a regulation compelling shipments of clams to be marked in any particular manner. (H. D. Crie, July 31, 1930).

Director of Sea and Shore Fisheries, except in an emergency, should not incur expense for obtaining advice from attorneys. (H. D. Crie, July 28, 1930).

State legislation prohibiting the importation and storage in Maine lobster pounds of Canadian lobsters would be unconstitutional. (H. D. Crie, September 24, 1930).

STATE TREASURER

Formal opinions approving the legality of temporary loans and bond issues were filed with the State Treasurer as follows:

State Highway and Bridge Bonds:	
March 17, 1929	$1,000,000.00
Aug. 27, 1929	900,000.00
Nov. 12, 1929	556,000.00
June 25, 1930	1,500,000.00
Aug. 28, 1930	1,500,000.00
Waldo Hancock Bridge Bonds:	
Aug. 29, 1930	$700,000.00
Temporary loan under R. S. 1930, Chap. 2, Sec. 89:	
Nov. 14, 1930	$800,000.00

MISCELLANEOUS BOARDS, INSTITUTIONS AND OFFICIALS

In behalf of the Board of Registration in Medicine a hearing was conducted in July, 1929, for the revocation of the license of Dr. Charles K. Donnell of Lewiston, Dr. Donnell having previously been convicted after a jury trial of manslaughter in connection with an abortion. At that time appeal proceedings in behalf of Dr. Donnell were pending in the Law Court. Counsel for Dr. Donnell argued that under these circumstances he did not stand "convicted of a crime," as a foundation for cancelling his license. On a proceeding in the Law Court to test the validity of the action of the Board, this contention was upheld and the license was ordered reinstated. 128 Maine, page 523.

The Attorney General's Department has from time to time assisted the Board of Registration in Medicine and other

Boards in the investigation of unlicensed practitioners, and in one case in Somerset County has aided in obtaining a conviction of such an offender.

Opinions have been filed as follows:

An osteopath may be appointed a city physician. (Grover Welch, Westbrook, November 12, 1930).

A person not entitled to a certificate because of lack of age or incomplete educational qualification may nevertheless be examined. (Dr. A. H. Swett, Portland, September 4, 1930).

The Board of Accountancy may require residence or a place of business within this state as a prerequisite to issuing a reciprocal certificate without an examination. (R. M. Millett, Portland, September 22, 1930).

A chiropractor may not sign a death certificate. (Dr. R. M. Thomas, Lewiston, June 12, 1930).

Five and ten-cent stores may sell spectacles without ophthalmic lenses. (Arthur L. Corriveau, Biddeford, December 10, 1929).

Veterans receiving financial relief should not be listed in town reports as paupers. (Israel Bernstein, Portland, April 16, 1930).

Interpretation of the World War Relief Act. (George W. Leadbetter, Augusta, January 30, 1930; opinion annexed).

Free treatment in hospitals. (Governor, December 6, 1929; opinion annexed).

Support of feeble minded patients. (Dr. S. E. Vosburgh, Pownal, December 11, 1929).

Commitments to hospitals. (Frank B. Miller, Rockland, October 8, 1929).

Compelling attendance of patient at hearing on complaints. (Dr. Carl J. Hedin, Bangor, March 12, 1929).

Post-mortem examinations. (Dr. T. A. Devan, Bangor, July 9, 1930; opinion annexed).

Among opinions filed with various institutions are these:

Commitment without notice; opinion annexed. (Dr. S. E. Vosburgh, Pownal, February 27, 1930).

State institutions have no power to buy real estate. (Elmer B. Pratt, S. Windham, October 1, 1929).

Parole can be voted prior to the date when it takes effect. (H. H. Hastings, Bethel, September 18, 1929).

The Attorney General assisted the trustees of the tuberculosis sanitoriums with reference to a controversy over a

construction contract,* and assisted the State Messenger in charge of state pauper cases with reference to a controversy between Maine and New Hampshire as to the settlement of certain paupers.

TOWNS AND ELECTIONS

Many informal opinions were given to town officers, and particularly to election officers, among which the following may be mentioned:

Town clerks may paste original conditional sales instruments into a book instead of transcribing them. (A. W. Kierstead, Wiscasset, May 22, 1930).

Municipalities may award contracts for school buildings without asking for bids. (Commissioner of Education, Augusta, May 22, 1930).

There is no provision of law authorizing a registration board to register a person not yet of age. (H. B. Holland, Waterville, June 7, 1930).

Registration board may remove name of woman voter becoming married until she requests reinstatement. (Mary A. Burr, Brewer, December 8, 1930).

COURTS

The Attorney General assisted in the drafting and redrafting of the Act of 1929 revising the court system of the state, and conducted for the proponents of the bill the hearing on the bill before the Judiciary Committee. The bill was unanimously adopted by both Houses, (P. L. 1929, Chapter 241), and appears in the Revised Statutes of 1930 as a portion of Chapter 91.

Early in 1929, at the suggestion of one of the judges, the Attorney General drew up a pamphlet of instruction for jurors which was distributed to the various courts of the state.

August 20, 1930, this department gave an opinion to the effect that the County of Washington does not have the maintenance of the county building at Calais, Washington County under R. S. (1916) c. 83, Sec. 11; R. S. 1871, c. 77; P. & S. L. 1869, c. 261.†

The change in court rules has already been referred to.

*Claim subsequently presented by the contractor to Claims Committee of Legislature of 1931 and after hearing disallowed except for amount conceded by the trustees as due.

†See P. L. 1931, c. 7.

LEGISLATION

The Attorney General and his Deputy in addition to the assistant Attorney General appointed for the purpose, were as usual available during the legislative session for the assistance of the Legislature in drafting legislation. Some of the more important laws in which the aid of the department was availed of have already been mentioned.

Some assistance was also given from time to time to the legislative joint committee which compiled the revision of 1930 during and subsequent to the session of 1929, and prior to the special session of 1930. With the secretary of this committee, Smith Dunnack, Esq., of Augusta, conferences have taken place with reference to the new system for drafting and revising the laws at the special session. Mr. Dunnack as Revisor will take over a large part of the duties during the legislative session previously performed by the legislative Assistant Attorney General. There is complete cooperation between the Attorney General's Department and the Revisor, and the members of the Legislature are also assured of the cordial assistance of the Attorney General and his Deputy, as heretofore.

MARRIAGE LAW

By an inadvertence in amending Section 12 of Chapter 64 of the Revised Statutes by P. L. 1929, Chapter 82, the power of justices of the peace and notaries public to solemnize marriages was abolished.

(Letter to A. E. Smith, City Clerk, Portland, June 24, 1929).

This inadvertence was corrected in the revision of 1930, which took effect November 10, 1930.

SUNDAY LAW

Of three opinions on the Sunday Law under dates of June 5, 1929, February 20, 1930, and November 26, 1930, two are hereto annexed.

CRIMINAL MATTERS

The functions of the Attorney General with reference to criminal cases are most important and occupy a large proportion of the time and attention of the incumbent. In this respect the report of the recent survey commission wholly misapprehended the facts.

The cooperation between the State Highway Police and the Attorney General is mutually helpful and valuable. Neither agency, however, could operate without the other. To both the Attorney General and the State Highway Police come complaints and requests for investigation and assistance, not only from state officials and the public, but also from the various county attorneys. In many of these cases the Attorney General, or the State Highway Police as the case may be, can work out a satisfactory result alone. In some of these cases one or the other agency is better qualified to do this than the other,—the Attorney General, of course, approaching the problem from the legal point of view; the Highway Police from the administrative. In a large proportion of cases, however, cooperation is needed. Without the legal assistance of the Attorney General's department the Highway Police would be inadequate; without the efficient administrative aid of the State Police the Attorney General's office would limp.

Increasingly during my term of office I have availed myself of the State Police, and through and with them a large proportion of the criminal cases coming to the attention of the Attorney General have been handled, and I have nothing but the highest commendation for the personnel of that department. The personal assistance that I have been able to give to and receive from General Hanson, Captain Young and their subordinates has been an enjoyable feature of my work.

There have been, however, a number of cases where for one reason or another the services of investigators outside the State's organization have been employed. Among these have been the fire at Hartford in Oxford County, in which Elihu Turner was burned. This case was investigated for this department by Boston detectives, and in certain aspects subsequently by Eugene A. Cloutier, the efficient investigator attached to the office of the sheriff of Androscoggin County.

Several other mysterious fires in different parts of the state have been investigated by Arthur G. Robinson of Gardiner, a licensed detective, who secured satisfactory results, in one case leading to the conviction and sentence of the suspected person. Frauds perpetrated with reference to the porcupine bounty were also effectively investigated by Mr. Robinson, and convictions resulted. He has served, also, as special investigator for the Attorney General in several other cases, and as State House detective during the legislative session.

Several cases have been effectively investigated by Frank J. Rogan, a licensed detective of Bangor, Maine, and by Philip W. Wheeler of Portland.

For obvious reasons I omit any detailed reference to three investigations which at the present time are under way; to several investigations where the personality of the investigator was necessarily kept in the background; and to the many routine investigations already referred to, carried on in co-operation between the Attorney General and the State Highway Police.

LOTTERIES

Early in my term of office my attention was called by the local authorities in Aroostook County to the widespread prevalence of the practice of issuing numbered tickets in connection with purchases of gasoline, the ticket entitling the purchaser to a chance at a later drawing for a substantial prize. In accordance with the statutory duty imposed on the Attorney General to proceed against lotteries, I had the situation investigated by John F. Liscomb of Portland, and on the basis of his report brought an injunction proceeding against one of the gasoline dealers who had taken a particularly definite stand for his supposed right to continue the practice. Restraining order having been obtained and the case set for hearing on the issuance of a temporary injunction, the defendant, after consulting counsel, voluntarily reversed his position and agreed to discontinue the scheme. His competitors followed his example, and the result of the investigation and the court proceedings was thus accomplished satisfactorily.

The publicity given to this proceeding has brought to the Attorney General's office many other complaints regarding gambling devices and lottery schemes of one kind and another. It would seem that a wave of the gambling spirit has been rising in the state during the last few years. Some of these complaints have required investigation, but most of them have been disposed of satisfactorily by correspondence with the complainants, and with the persons or institutions complained about. They have usually discontinued their practice on learning of the very definite restrictions of our law against devices which are legal in some other states.

Some of the complaints have required reference to the local prosecuting authorities who have efficiently taken them up and acted upon them. In Cumberland County in particular, a large number of gambling machines we seized, and although these were subsequently returned to the claimants because of defects in the libel, nevertheless these machines have disappeared from the community and the result sought for has been accomplished.

In connection with these various lottery cases opinions on legality or illegality of various selling schemes have been given from time to time, among which may be mentioned the following:

Suit clubs. (James M. Beckett, Calais, September 18, 1929).

Gift clubs. (John H. Welch, Sheriff, Houlton, October 1, 1929).

Raffles. (Ralph W. Hawkes, County Attorney, York, June 25, 1930).

Prizes. (National Shoe & Leather Bank, Auburn, December 2, 1930).

MEDICAL EXAMINERS

There has been considerable correspondence with medical examiners as to their powers and duties, and also with reference to particular cases. A general letter was sent out to all medical examiners under date of November 18, 1929, hereto annexed. This supplements a similar letter issued some years ago by Honorable Guy H. Sturgis when he was Attorney General.

Our medical examiners are a fine, conscientious lot of officials, and the present system is far in advance of the old system of coroners,—an office finally abolished by the Legislature of 1929. They have, however, sometimes failed to perceive that from them must often come the first clue to a homicide. It is the province of the medical examiner to satisfy himself whether or not a sudden death is homicidal rather than natural, accidental or suicidal and to put the prosecuting authorities on their notice if he has any doubt about it.

THE PERKINS CASE

In February, 1929, two witnesses planted by one Claude A. Noyes of Orono, at the suggestion of his counsel, overheard a conversation between him and one Ralph L. Perkins, at Noyes' house, the subject being the proposition that Noyes should pay Perkins a large sum of money for withholding prosecution of Noyes for an offense against the liquor laws. This offer came to my attention because of the fact that Perkins, who was then a licensed detective, carried a limited and short time appointment from the Attorney General as an under cover investigator; and also because of statements made by Perkins as to his associates and authority, which it seemed might involve local officials.

On investigation it appeared that Perkins had demanded $2,000.00 from Noyes within twenty-four hours after Perkins had come upon Noyes in the act of receiving certain liquor, and had collected $1,000.00 of the amount. This liquor belonged to Noyes, had been in storage in Lewiston, and had been delivered to Noyes by arrangement with an associate of Perkins'. On the face of these circumstances Perkins had extorted a bribe and sought a further bribe as a stipend for winking at a breach of the criminal laws. For this and other reasons which were disclosed as the circumstances were investigated, there was no doubt in my mind but that the Attorney General should take over this prosecution.

Accordingly, I presented the case to the municipal court of Bangor, which bound the respondent over to the Superior Court. In the municipal court he offered no evidence.

In May 1929 I presented this and several other cases against Perkins to the Grand Jury, which indicted him on a number of counts. Later in the term the case was set for trial, and the State was ready. In conference just prior to the opening of court the defendant's attorney stated that Perkins was willing to plead nolo to several of the charges. After this definite statement I acceded to his request to move for sentence on a charge not connected with the Noyes case, having in mind that the effect of this plea on the Noyes charges would of itself debar Perkins from future office holding in the State,—a serious punishment in itself, to a man who had served several terms in the Legislature and was understood to aim at further political preferment.

The case was continued for sentence to a later date in the term. At that time on my moving for sentence the court asked to hear counsel with reference to the circumstances on which all the counts in the indictment were based. After lengthy colloquy the case was again continued for sentence to the September term of court, with the definite statement that at that time the court would consider and the parties would be ready to present the circumstances on all the counts.

At the September term of court when the case was in order for sentence, Perkins' counsel filed a writ of "coram nobis," which he subsequently abandoned, and a motion to change the plea to not guilty.

His counsel argued that the plea of nolo had been entered inadvertently and with a misunderstanding on the part of Perkins and his counsel as to the power of the court to consider counts other than the one on which sentence was moved. The Attorney General resisted this motion and argued against the existence of a misunderstanding as a matter of fact and law, and also relied on laches on the defendant's part. The court overruled the motion and counsel stated their several positions on all the counts except two minor counts which had already been nol prossed.

It appeared that Perkins' position in fact was that instead of offering to take a bribe he had been endeavoring to get Noyes to bribe him so that he would be able to lay a more serious charge against Noyes. It was not explained, however,

how it happened that, not content with receiving $1,000.00 in cash, he sought to obtain a further sum; and also why he failed to have any witnesses present in his conferences with Noyes to bear out his case in the event that subsequently he should wish to prosecute Noyes for the bribery.

The court sentenced Perkins on one of the Noyes counts to a minimum of two and a maximum of four years.

On exceptions to the Law Court the case was argued by the Attorney General at the December Term, 1929, and subsequently the rescript of the Law Court was received, overruling the exceptions and affirming sentence.

Perkins, having been committed, subsequently sought a pardon from the Governor and Council. After a hearing in which Perkins' contentions were fully set forth and the position of the prosecution made clear, the Governor and Council commuted the sentence to a minimum of one, and a maximum of two years, which was the maximum sentence which could have been awarded on the count in the indictment on which the Attorney General moved for sentence.

PARDONS

The Perkins case is the only case in which the Attorney General has appeared before the Governor and Council with reference to a pardon. Like my predecessors, I have felt that unless requested by the Governor and Council I should not appear in such cases. Like some of them at least, however, I feel that it is unfortunate that pardons are presented and passed on without the State's point of view being made evident. The statutes permit the Governor and Council to call for the point of view of the prosecution. The function of the Attorney General in this respect has been somewhat similar to the function of the prosecutor with reference to sentence. After a conviction is secured sentence is for the court, although the recommendation of the prosecutor may be helpful. In the same way after the respondent is committed, pardon is for the Governor and Council.

A large proportion of cases are dismissed by the Governor and Council on the petitioner's own presentation of the case with-

out the necessity of hearing the other side. If the Governor and Council felt that it were practicable to request a check-up by the Attorney General's Department, at least in cases where the petitioner's story leaves a favorable impression, it might be that the wild and unsupported statements frequently made by those requesting pardons would be somewhat curtailed.

I do not seek for any more work or authority for myself or my successors, but do believe that justice might be furthered in some such cases.

EXTRADITION

As usual, the Attorney General's office has passed on the papers when extradition either from or by this state has been requested; has aided the Governor in deciding contested extraditions, and has advised with and consulted the State Police and county attorneys in regard to absconding respondents. The expense of extraditing from other states is paid from the appropriation for this department for arrest and apprehension of criminals.

As by my predecessors, extradition from other states has been discouraged where the offense charged is a misdemeanor or is a non-support case with a primary object other than the prosecution of a criminal charge.

The Uniform Extradition Law was adopted by the Legislature of 1929. It makes few changes in our law and practice. The part taken by the Attorney General in ascertaining the sentiment of the various states regarding certain features of this law has already been mentioned.

MISCELLANEOUS

In connection with conferences and correspondence with county attorneys, the Highway Police, state officials and citizens generally, several opinions have been filed. The most important of these was an opinion given to General J. W. Hanson, Chief of the Highway Police, on January 31, 1929, defining the existing powers of the Highway Police. This opinion had the result, as it was hoped it would, of calling

the attention of the Legislature, then in session, to the inadequacy of the existing law. The law was amended to vest the force with the powers which it needed, and which it has efficiently administered since that time.

Other opinions have been filed as follows:

County attorney's duty as to bail. (G. W. Johnson, Bangor, April 16, 1930).

P. L. 1923, Chapter 7, is in part unconstitutional; opinion annexed. (R. W. Hawkes, York, April 26, 1930).

Medical examiners. (W. M. Hilton, Damariscotta, August 27, 1930).

Panhandling on the State Highways,—legislation insufficient.* (L. D. Barrows, Augusta, August 5, 1930; James L. Boyle, Waterville, September 12, 1930).

After payment of a fine in a Municipal Court appeal cannot be entered and the fine refunded. (Herbert E. Foster, Winthrop, January 15, 1930).

Duty of county attorney prior to issuance of a complaint. (G. W. Johnson, Bangor, November 26, 1930).

HOMICIDES

It has always been the peculiar province of the Attorney General to give his assistance, and on occasion to take charge of the investigation of violent deaths and the prosecution of persons accused of homicide.

Murder, although punishable by life imprisonment instead of death, is still a capital crime in this state, and no expense is spared in detecting and punishing the guilty person. The state is satisfied, and it seems to me properly satisfied, with its course in abolishing many years ago, the death penalty, and I coincide with the recommendation of my predecessors that no change in this respect should be made.

I will summarize by counties the homicides during my term of office, but as a preliminary to this consideration mention two points:

First: The very high grade of efficiency that has obtained throughout my term of office in the conduct of the several offices of sheriff and county attorney throughout the state, and the high degree of cooperation that I have at all times

*See P. L. 1931, c. 146.

encountered with them and with the several police departments. The State Highway Police has had the same experience. We certainly can congratulate ourselves in this state that the divergence between coordinate branches of the prosecuting departments of the state, county and municipality is at a minimum, and instances where poor results follow because of the jealousy between different individuals are rare.

One reason for this efficiency during the last two years is undoubtedly the length of service of many of the prosecuting attorneys. During this period, of the sixteen county attorneys only two were serving their first term, while on the other hand ten were serving on at least a third term, several of the county attorneys having had experience of a decade or more. During the coming two years, however, nearly half the county attorneys will be new incumbents.

Secondly: I want to comment particularly on the number of homicide cases in which pleas of guilty have been entered prior to trial. In this way the state has been saved expense and the certainty of punishment has emphasized.

Contributing to this result is doubtless the provision of our law requiring a transcript of the testimony in capital cases to be made and preserved. With such a transcript on record there is less hope of obtaining a pardon in later years when the circumstances of crime have begun to fade from memory. Respondents accused of a capital crime who plead guilty without a trial sometimes feel that they are in a better position to seek a pardon than if the case had been ventilated in a public hearing.

The following is a summary of the homicide cases during my term,—most of the manslaughter cases arising from the alleged reckless driving of automobiles.

ANDROSCOGGIN COUNTY

At the October Term, 1930, Charles Gauthier was indicted for murder of Henry Niskanan; and for assault with intent to kill Carlos Niskanan, the son of the deceased. The affair originated in a drinking party at Gauthier's house. Gauthier admittedly shot the victims in his yard when they were leav-

ing late at night. After a trial in which Gauthier claimed self defense, the jury returned a verdict of not guilty. The Attorney General assisted the county attorney in presenting the case to the grand and trial juries.

Charles K. Donnell and Estella Edwards were indicted at the June Term, 1929, for manslaughter and abortion in connection with the death of Thelma Smith, a young married woman from Portland who disappeared in Lewiston in March. At the time when the respondents were bound over to the Superior Court, the whereabouts of the victim were unknown, but her body was subsequently found in the Androscoggin River, and Dr. George B. Magrath, Medical Examiner of Suffolk County, Massachusetts, after an autopsy, testified that she died from loss of blood following an illegal operation.

With the Attorney General assisting both in the preliminary proceedings and at the trial, both respondents were convicted of manslaughter at the June Term, 1929, and sentenced to State's Prison.

This was the first time in many trials occurring at intervals and during a long period of years, that the respondent Donnell had been convicted by a jury, but the conviction did not stick.

Exceptions to the Law Court and motion for a new trial were argued by the Attorney General at the December Term, 1929, and the Law Court ordered a new trial because of the admission of a conversation which the court held was hearsay. (*State v. Donnell*, 128 Me. 500).

Retrial was had at the March Term, 1930, resulting in a disagreement. The indictments are still pending, the physical condition of the respondent Donnell being such that after a hearing the presiding justices at the June, October and December, 1930, terms of court allowed his motion for continuance.

Other manslaughter cases in this county:

Parker Welch,—pleaded guilty. Sentence: $500.00 and eleven months in jail.

Joseph Filion,—pleaded guilty after second trial had begun. Sentence: $500.00 and eleven months in jail. (First trial, disagreement).

Richard M. Darling,—Verdict not guilty after trial.

AROOSTOOK COUNTY

Leonard Santere,—convicted of manslaughter after trial, July, 1929. Sentence, ninety days in jail.

Elizabeth Nelson,—indicted for murder of her husband, November Term, 1929. Pleaded guilty to manslaughter with the approval of the court and Attorney General. Sentence: Women's Reformatory.

CUMBERLAND COUNTY

Early in April, 1930, Margaret Perry Williams, wife of Kenneth Charles Williams, was found dead at the foot of the shed stairs in a house adjoining her home in Yarmouth. At first supposed to be a case of accidental death, suspicious circumstances were brought to the attention of the authorities by a Portland newspaper and by the Medical Examiner, Dr. W. E. Freeman of Yarmouth. Dr. Magrath of Boston having performed an autopsy, determined the cause of death to be loss of blood from injuries to the head of too serious a nature to have been caused by an accidental plunge down the stairs.

The case was thoroughly examined by the Grand Jury of Cumberland County at the May Term, 1930. Having been previously interrogated as a witness, her husband Kenneth Charles Williams, during the noon recess of the third day of the hearing, confessed first to the prosecuting attorneys and subsequently to the Grand Jury, to the deliberate murder of his wife. Indicted, he pleaded guilty and was sentenced to State's Prison for life.

The credit for obtaining his full, frank, free and willing confession is due to the efficient county attorney, Ralph M. Ingalls.

On Saturday, July 12, 1930, Lillian MacDonald, an employee of Loring, Short & Harmon, stationers, Monument Square, Portland, disappeared while delivering pay envelopes to the employees. On the next day, the police, having failed to locate the girl either dead or alive, the county attorney, Mr. Ingalls, accompanied the police to the store, confident that she must be somewhere on the premises. Entering the cellar with the police inspector he discovered the charred remains of a portion of her body in the firepot under the boiler.

James M. Mitchell, a young man employed as errand boy and assistant janitor in the store, on being brought to the home of the county attorney, after an interrogation by the county attorney, assisted by the Attorney General and members of the Portland police force, frankly and freely confessed that he had murdered the girl in a fit of passion and attempted to destroy her body in the furnace. Indicted by the grand jury at the September Term, 1930, he pleaded guilty to murder in the first degree, and was sentenced to State's Prison for life. Again Mr. Ingalls deserves particular credit for the handling and outcome of this case.

James Caiazzo was indicted at the September Term, 1930, for murder of Luigi Limosano with whom he had had an altercation during a social evening. On the same day when the Mitchell case was disposed of, Caiazzo with the approval of the court and the Attorney General, pleaded guilty to manslaughter, and was sentenced to State's Prison for a term of not less than seven and not more than fourteen years.

Other manslaughter cases in Cumberland County:

January Term, 1929, William D. McPhee,—acquitted after trial.

September Term, 1929, Joseph Shatz,—pleaded guilty. Sentence: 6 months in jail.

September Term, 1929, Thos. J. Mulkern,—indicted for murder of one Chester Guevin in an altercation. With the approval of the Attorney General and the court he pleaded guilty to manslaughter. Sentence: 10 to 20 years in State's Prison.

September Term, 1930, Edith M. Renaud,—convicted after trial. Sentence: 6 months in jail.

FRANKLIN COUNTY

The following manslaughter cases:

February Term, 1929, Hersey Wright,—verdict guilty after trial; appeal to Law Court dismissed. Sentence: $200.00 and costs.

September Term, 1929, Scott Swett,—nol prossed.

HANCOCK COUNTY

No cases.

KENNEBEC COUNTY

No cases.

KNOX COUNTY

At the June Term, 1929, the Attorney General assisted the county attorney in placing before the Grand Jury the evidence relating to the death of one Hadley D. Prouty of Union. The Grand Jury indicted Clyde C. Butler for assault and battery. The Attorney General assisted the county attorney in the trial. Butler was found guilty and sentenced to State Prison for 2 to 3 years.

In June, 1930, William Davis, a young lad at Port Clyde, disappeared and on the next day his body was found in the ice pond near his home. An autopsy disclosed death apparently due to the inhaling of a small amount of water while unconscious from blows on the head. The Attorney General had the case investigated by Philip W. Wheeler of Portland and by members of the Highway Police. Many witnesses were summoned before the Grand Jury at the November Term, 1930. The Grand Jury reported that in their opinion young Davis came to his death by murder at the hands of a person or persons to the Grand Jury unknown.

LINCOLN COUNTY

No cases. One death was carefully investigated by the Grand Jury, but no bill was found.

OXFORD COUNTY

The mysterious death of Elihu D. Turner of Hartford early in 1929, in connection with the destruction by fire of the farm house where he lived alone, was investigated by the local authorities and by the Attorney General, as has already been mentioned. One Anna M. Welch, a former employee of the deceased, who was at his house on the night of the fire, was bound over to the Grand Jury. The Grand Jury after considering the case in June, 1929, reported no bill.

The following manslaughter cases:

February Term, 1929, Joseph D. Kane,—guilty after trial. Sentence: 2 to 3 years in State Prison.

October Term, 1929, Harold H. Horne,—verdict not guilty after trial.

February Term, 1929, Walter J. Ervine, pleaded nolo. Sentence: probation for one year. (First trial at the October Term, 1928, on his plea of not guilty resulted in a disagreement).

PENOBSCOT COUNTY

The following manslaughter cases:

January Term, 1929, Joseph J. McVety,—verdict not guilty after trial.

William L. Brown,—verdict not guilty after trial.

September Term, 1929, Frank A. Bickford,—manslaughter and abortion. Nol prossed because of disappearance of State's principal witness.

September Term, 1929, Thomas Rist,—verdict guilty after trial; appeal to Law Court dismissed. Sentence: 2 to 3 years in State Prison.

January Term, 1930, Paul Cox,—guilty after trial. Sentence: $200.00 and 4 months in jail.

PISCATAQUIS COUNTY

The following manslaughter cases:

September Term, 1930, John Salinsky,—pleaded guilty. Sentence: 7 1-2 to 15 years in State Prison.

September Term, 1930, Joseph Conley,—case pending, continued until 1931.

SAGADAHOC COUNTY

No cases.

SOMERSET COUNTY

On the basis of information coming to the attention of Elton L. Markham, sheriff, during the fall of 1929, he con-

ducted an investigation with the assistance of the Attorney General, which resulted in locating among the roots and under the stump of a tree, the skeleton of one Thomas Comeau who had disappeared about two years before. On the basis of evidence which the assiduity of the sheriff and his deputies discovered, Frank H. Reynolds and Andrew Edgar, having been bound over to the Grand Jury, at the January Term, 1930, were indicted for murder. With the approval of the court and the Attorney General, Reynolds' plea of guilty of manslaughter, and Edgar's of guilty as accessory, were accepted, and they were sentenced to State Prison—Reynolds for ten to twenty years, Edgar for three and one-half to seven years.

At the May Term, 1930, Donald Pomeroy was indicted for the murder of Dorris Moran of Skowhegan, whom he deliberately slew in her parlor from jealousy. Having been examined as to his sanity, and found to be sane, he pleaded guilty to murder at the September Term, 1930, on the same day when two similar pleas were entered by respondents in Cumberland County, and was sentenced to life imprisonment in State Prison. The Attorney General assisted the county attorney in presenting the case to the Grand Jury, and obtaining a plea of guilty.

At the present time, and for some weeks in the past, diligent search by the sheriff, his deputies and a posse paid by private citizens, has produced no result in the effort to locate one Mitchell Kaufman, who disappeared from a hunting party.*

WALDO COUNTY

No cases.

WASHINGTON COUNTY

The following manslaughter cases:

February Term, 1930, Armand C. Little, pleaded guilty. Sentence: eleven months in jail.

October Term, 1930, Leo J. Martell, not guilty after trial.

The Attorney General assisted the county attorney in presenting one other case to the Grand Jury in which no bill was found.

*Kaufman's body was found in the woods on the Canadian side of the boundary May 18, 1931. Coroner's inquest; verdict, accidental death.

YORK COUNTY

The following manslaughter case:

September Term, 1929, John Doe and Rose Milin, still pending.

During December, 1930, the Attorney General assisted the local authorities in the investigation of the disappearance of one Frank Ramsdell. Assault leading to his death was suspected. After a search of several days his body was found in Little Ossipee Lake. An autopsy by the Medical Examiner, Dr. S. A. Cobb, assisted by Dr. George B. Magrath of Boston, disclosed that death was due to drowning, and the investigation closed.

CRIMINAL STATISTICS

In preparing the criminal statistics for the period of my term of office I have been greatly aided, first by the willingness of the county attorneys to furnish the requested information, and secondly, by the efficient assistance of Sam Bass Warner, Esq., of the Harvard Law School, the statistical representative of the National Commission on Law Observance and Enforcement appointed by President Hoover, with George W. Wickersham as Chairman.

Taking the opportunity offered by a shortage of the forms previously in use for the annual report which the law requires from county attorneys to the Attorney General, I revised these forms during the first year of my term of office.

Subsequently, after studying an illuminating discussion of criminal statistics led by Mr. Warner at the Convention of the American Bar Association at Chicago in August, 1930, and after conference and correspondence with Mr. Warner, these forms were again redrafted and simplified for use by the county attorneys in preparing their reports for the year 1930. By these latest forms the county attorney is to report briefly on separate sheets by brief notations and check mark the history and data of each case against each respondent instead of laboriously filling out the many columns of a complicate and elaborate tabulation of his cases.

Mr. Warner courteously offered to compile the statistics from these reports for the two years in usable shape and the following are the figures as compiled by him with his comments:

COMMENTS OF SAM BASS WARNER, ESQ.

Returns submitted by the several county attorneys show that in the Supreme Judicial Court and in the Superior Courts of Maine during the statistical year ending November 1, 1929, the cases of 2126 defendants were disposed of; and during the statistical year of 1930, the cases of 1866 defendants. Of these cases, 1049 in 1929, and 880 in 1930, or almost one-half each year, were for offenses involving intoxicating liquor. 471 cases in 1929, and 440 in 1930, or almost one-quarter each year, were for the acquisitive offenses of robbery, breaking and entering, forgery and larceny. Next in importance numerically came, in 1929, assaults 119, sex offenses 104, and violating of motor vehicle and traffic laws 97; and in 1930, assaults 128, sex offenses 93, and violation of motor vehicle and traffic laws 79. Thus the difference in the total number of cases from one year to the next does not represent any significant difference in the proportion of the various offenses.

Murder cases as usual in Maine were very few, amounting to only nine in two years, all of which with the exception of one acquittal resulted in sentences to imprisonment. Less than 3.5% of the prosecutions in 1929, and 3.2% in 1930, were for the serious felonies of murder, manslaughter, rape, robbery and felonious assault. If to this list is added breaking and entering, forgery and larceny, the total still was but slightly more than a quarter of the entire number of prosecutions in either year. In fact, the great majority of the prosecutions coming before the courts do not deal with serious crimes, but rather with what are commonly called regulatory offenses.

Another indication of the lack of gravity of a large proportion of cases is their origin. Almost half of the prosecutions are appeals from lower courts; that is to say, cases not considered of sufficient importance to be begun by indictment in the Supreme or Superior Courts.

The number of prosecutions in 1929, 2126, is 16 more than the number instituted in 1928, but less proportionately to the population than the number for any but four of the last twenty-five years. In 1930 the number of prosecutions, 1866, shows a drop of 260 against the year previous. Thus there is nothing in the statistics of criminal proceedings in Maine to indicate the presence of a crime wave.

The average total annual number of prosecutions was 2494 for the first decade of this century. During the second decade the number declined until in 1920 it was but two-thirds of the average figure for 1900-1909. Then it rose rapidly to 3128 in 1924, but in 1926 it dropped again to below the average for the first decade, where it has remained ever since.

Not only has the total number of prosecutions varied greatly during the past thirty-one years, but the proportion dealing with liquor offenses has changed markedly. In 1900 there were almost four times as many prosecutions for violations of liquor laws as for all other offenses combined. The number of prosecutions for liquor offenses declined and the number of prosecutions for other offenses increased until by 1915 liquor and other offenses became nearly equal in number, which they have been ever since.

The number of prosecutions for robbery has, like that for murder and for rape, remained very small during all three decades without any marked trend up or down. Prosecutions for forgery, larceny and breaking and entering, on the other hand, have increased greatly so far during this century until they now are more than double what they were in 1900 even allowing for the increase in population. The remainder of the increase since 1900 in offenses other than those relating to liquor is accounted for mainly by prosecutions for violations of motor vehicle and traffic laws and various sex offenses.

The following table indicates how cases arising by indictment and appeal were disposed of in 1929 and 1930:

	1929		1930	
	Indictments	*Appeals*	*Indictments*	*Appeals*
Total cases per cent	100	100	100	100
Nol-prossed, dismissed, etc.	26	37	24	32
Acquitted	3	5	4	4
Convicted by jury	5	4	5	5
Pleaded guilty	66	54	67	59
Total convicted	71	58	72	64
Total convictions per cent	100	100	100	100
Continued for sentence, etc.	30	29	33	29
Probation	17	7	21	8
Fine	5	24	3	19
Imprisonment	48	40	43	44

The county attorneys certainly deserve to be congratulated on the very high percentage of convictions secured: 71% for indictments and 58% for appeals in 1929; 72% for indictments and 64% for appeals in 1930. The greater percentage of convictions in indictment cases is, of course, due to the fact that these represent the more important cases and hence the ones upon which the county attorneys expend the most time and energy. It is unusual in this country for convictions to be obtained in over half the cases tried. The fact that convictions were obtained in almost two-thirds of the indictment cases tried in 1929 and three-fifths in 1930 bears testimony to the high quality of Maine judges, jurors and prosecutors. Mr. Frank E. Southard, county attorney of Kennebec County, is especially to be congratulated for having convicted 19 of the 20 defendants tried before a jury for an

indictable offense in the last two years. Also, Mr. Ralph M. Ingalls, county attorney of Cumberland County, deserves mention for obtaining in 1930, 12 convictions in 16 jury trials.

Another matter upon which the judges and prosecutors merit commendation is the nature of the dispositions of convicted defendants. The percentages indicate a laudable discretion in the handling of convicted defendants, especially the frequency with which the more promising cases are handled on probation and the infrequency with which fines are imposed for serious offenses. The percentage of cases handled on probation has noticeably increased from 1929 to 1930. As the facilities for probation extend throughout the state, the proportion of cases placed on probation will doubtless increase further at the expense of those imprisoned, fined, continued for sentence or given a suspended sentence without probation.

The small part played by the defense of insanity in Maine is indicated by the fact that in 1929 only three defendants were acquitted because of insanity. They were indicted for felonious assault, larceny and incest respectively. Three other defendants were so obviously insane that they were not tried, but sent to the hospital for the insane. In 1930 the number of insane defendants was still less. One, charged with breaking and entering, was acquitted on account of insanity; and one other, charged with larceny, was sent to the state hospital without trial.

The number of cases pending at the end of the year shows a slight increase in 1930 over the 1929 figure in spite of the decrease in the total number of cases coming before the courts. This is apparently due to the situation in Androscoggin County where 440 cases disposed of in 1929 left 91 pending, and the 287 cases disposed of in 1930 left 138 pending, a much greater proportion than in any other county.*

NOTES TO TABLES

Source of Figures

The figures in these tables are based on returns sent pursuant to law to the Attorney General by the various county attorneys. In 1929 returns were received from all sixteen counties, but information was incomplete in certain of the returns. Indictments were not always distinguished from appeals in the returns from Cumberland, Hancock and Kennebec counties; pleas were sometimes omitted in the returns from Aroostook, Oxford, Penobscot and Sagadahoc; and the nature of the sentence often missing in those from Cumberland, Lincoln, Knox, Somerset, Waldo and York. Accordingly, in compiling the statistics for 1929, it has been necessary to prorate, on the basis of other returns, the number of appeals and indictments, pleas of guilty or not guilty, and the sentences of convicted defendants.

*In Androscoggin County there is a December Term. The administration changed January 1, 1931. A large number of the cases above referred to which were pending on December 1, 1930, were disposed of during December before the close of the administration. (C. F. R.)

In order that the 1930 returns should constitute a better basis for this statistical table, the Attorney General sent to the county attorneys new forms and more definite instructions. These have effected a higher degree of accuracy in the 1930 statistics than has been possible in other years, since it has not been necessary to prorate any of the 1930 figures.

Classification of Offenses

All offenses reported by the county attorneys are not listed separately. The plan of the U. S. Bureau of the Census has been followed, both as to order and grouping. As there are so few cases each of prosecutions for carrying weapons, violating drug laws, disorderly conduct, vagrancy and violating municipal ordinances, these offenses have not been listed separately, but are included in miscellaneous.

All liquor law violations such as illegal possession, sale, manufacture, transportation, nuisance, search and seizure, etc., are recorded together. The largest number of cases included under the heading of miscellaneous, either indictments or appeals, are for game law violation.

In the 1929 table of cases on appeal, the three cases of juvenile delinquency and the 14 cases of sex and non-support, have been included in the miscellaneous group of appealed cases.

Allempts to commit murder and manslaughter are not listed with these offenses, but under felonious assaults, so that the statistics may show the true number of defendants charged with taking human life. An attempt or assault to commit any other offense is listed under the offense it was made to commit. Threats are listed in miscellaneous.

The Unit

The unit used in this compilation is the offender times the offense. Where two defendants are named in the same case, the case is counted twice; as are also two prosecutions brought against the same person for two entirely distinct offenses. However, of several cases brought against a single defendant, when the offenses charged are similar and seem to be part of the same transaction, one case only has been counted, and always that one the prosecution of which is carried farthest. The reason for this is that by Maine practice it is not unusual to set forth a complaint in several forms bringing as many cases against the defendant, of which all but the one where a conviction is secured are usually dismissed. Were each of these indictments against an individual included in the statistics, it would appear that many more defendants escape punishment than really do. The statistics, therefore, seek to eliminate all such duplication of offenses and offenders. The new forms used in 1930 are designed to facilitate this.

If the defendant is convicted of more than one offense apparently arising from the same transaction, only the most serious, that is the one nearest the head of the table, is counted. A conviction is always recorded in preference to an acquittal.

Where a person is prosecuted for one offense and convicted of another (e. g., indicted for breaking and entering and larceny, and convicted of larceny) the case appears only under the offense of which he is convicted.

Cases Included

The table deals with completed cases only, except that the last column, which is not included in the total, shows the number of cases pending at the end of the year. If a case has not been completely disposed of during the year, it is omitted from all columns of the table, except that for cases pending at the end of the year, and is left for inclusion in the figures for the year in which it is finally determined. A case is treated as disposed of when a disposition has been made, even though that disposition is subject to later modification. For example, if a defendant is placed on probation, his case is treated as completed, even though probation may later be revoked and sentence imposed or executed. No account is taken of the second disposition.

Defendants in cases on appeal who have defaulted are treated as pleading guilty.

Explanation of Headings

(a) Total means total number of defendants whose cases are disposed of during the year.

(b) Dismissed includes all forms of dismissal without trial such as nol-prossed, dismissed, placed on file, etc.

(c) Includes convicted on plea of nolo contendere.

(d) Here are placed cases of all convicted defendants which are continued for sentence, placed on special docket, given suspended sentence without probation, etc.

(e) Includes cases of defendants who in addition to being placed on probation are sentenced to fine, costs, restitution or support.

(f) Under sentence to fine only come cases where sentence is to fine, costs, restitution or support provided there is no probation or sentence to imprisonment.

(g) Includes cases of fine and imprisonment.

(h) Not included in any other column.

CRIMINAL PROSECUTIONS IN THE SUPREME AND SUPERIOR COURTS OF MAINE FOR THE YEAR ENDING NOVEMBER 1, 1929

ALL COUNTIES—TOTAL INDICTMENTS AND APPEALS

Dispositions	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence etc. (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	2126	672	82	102	1270	412	176	168	616	320
Murder	2	—	—	2	—	—	—	—	2	—
Manslaughter	19	2	7	5	5	1	1	1	7	6
Rape	11	6	1	2	2	—	1	—	3	2
Robbery	10	3	—	2	5	—	2	—	5	—
Felonious Assault	32	12	3	4	13	1	—	1	15	6
Assault & Battery	87	43	—	3	41	8	4	13	19	12
B. E. and L.	179	42	4	3	130	15	39	—	79	17
Forgery	49	7	—	3	39	6	9	—	27	10
Larceny	233	60	7	9	157	27	41	9	89	43
Sex	104	37	7	9	51	21	3	1	35	31
Non-support	31	25	—	—	6	1	1	1	3	23
Liquor	778	215	29	36	498	288	16	16	214	113
Drunken Driving	166	41	7	12	106	9	10	44	55	21
Drunkenness	105	26	—	—	79	8	15	15	41	5
Motor Vehicle	97	64	4	5	24	5	2	18	4	8
Juv. Delinquency	22	2	—	—	20	1	17	1	1	—
Miscellaneous	201	87	13	7	94	21	15	48	17	23

ALL OFFENSES—INDICTMENTS

Totals	1135	299	35	63	738	245	137	33	386	220
Androscoggin	244	68	1	3	172	135	4	1	35	72
Aroostook	106	17	5	8	76	11	5	14	54	19
Cumberland	194	65	7	9	113	21	18	3	80	10
Franklin	30	9	—	2	19	2	6	4	9	4
Hancock	26	10	1	—	15	5	2	—	8	3
Kennebec	90	6	1	12	71	23	11	3	46	5
Knox	22	4	2	—	16	5	3	—	8	10
Lincoln	20	5	1	2	12	—	7	—	7	7
Oxford	63	21	2	7	33	13	3	3	21	7
Penobscot	155	29	9	10	107	18	36	3	60	37
Piscataquis	27	9	—	1	17	3	9	1	5	2
Sagadahoc	11	3	—	—	8	4	—	—	4	—
Somerset	45	15	1	1	28	2	8	—	19	18
Waldo	9	—	1	3	5	—	—	—	8	3
Washington	30	4	—	2	24	2	15	1	8	4
York	63	34	4	3	22	1	10	—	14	19

ALL OFFENSES—APPEALS

Dispositions	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence etc. (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	991	393	47	39	532	167	39	135	230	100
Androscoggin	196	23	—	2	171	83	2	54	34	19
Aroostook	76	41	5	1	29	4	—	20	6	7
Cumberland	233	92	9	11	111	33	13	22	54	5
Franklin	20	12	4	—	4	—	2	1	1	—
Hancock	7	1	—	1	5	—	—	3	3	1
Kennebec	86	34	3	3	46	12	3	9	25	10
Knox	41	21	2	—	18	11	—	—	7	4
Lincoln	6	3	1	—	2	1	1	—	—	—
Oxford	22	14	1	—	7	2	1	1	3	2
Penobscot	142	44	16	11	71	10	5	15	52	22
Piscataquis	13	1	3	—	9	3	—	1	5	1
Sagadahoc	8	2	—	—	6	2	—	3	1	—
Somerset	38	22	—	2	14	3	6	—	7	6
Waldo	5	1	—	1	3	—	—	—	4	2
Washington	30	20	1	—	9	3	1	3	2	4
York	78	42	2	7	27	—	5	3	26	17

MURDER—INDICTMENTS

Totals	2	—	—	2	—	—	—	—	2	—
Androscoggin	1	—	—	1	—	—	—	—	1	—
Somerset	1	—	—	1	—	—	—	—	1	—

MANSLAUGHTER—INDICTMENTS

Totals	19	2	7	5	5	1	1	1	7	6
Androscoggin	2	—	1	—	1	—	—	—	1	2
Aroostook	2	—	—	2	—	—	—	—	2	—
Cumberland	5	—	3	—	2	—	—	—	2	—
Franklin	1	1	—	—	—	—	—	—	—	1
Hancock	1	—	—	—	1	1	—	—	—	—
Oxford	3	—	1	2	—	—	1	—	1	—
Penobscot	4	1	2	1	—	—	—	—	1	1
Washington	1	—	—	—	1	—	—	1	—	—
York	—	—	—	—	—	—	—	—	—	2

RAPE—INDICTMENTS

Dispositions	Total (a)	Nol-prossed etc. (b)	Acquitted	Convicted		Continued for Sentence etc. (d)	Probation (e)	Fine (f)	Imprisonment (g)	Pending at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	11	6	1	2	2	—	1	—	3	2
Androscoggin	2	—	—	1	1	—	—	—	2	—
Aroostook	—	—	—	—	—	—	—	—	—	1
Cumberland	2	1	—	1	—	—	—	—	1	—
Kennebec	1	—	1	—	—	—	—	—	—	—
Oxford	2	2	—	—	—	—	—	—	—	—
Penobscot	—	—	—	—	—	—	—	—	—	1
Washington	1	—	—	—	1	—	1	—	—	—
York	3	3	—	—	—	—	—	—	—	—

ROBBERY—INDICTMENTS

Totals	10	3	—	2	5	—	2	—	5	—
Cumberland	6	1	—	2	3	—	1	—	4	—
Kennebec	1	—	—	—	1	—	1	—	—	—
Penobscot	3	2	—	—	1	—	—	—	1	—

FELONIOUS ASSAULT—INDICTMENTS

Totals	27	10	3	4	10	1	—	1	12	5
Androscoggin	6	2	—	—	4	—	—	—	4	1
Aroostook	4	2	—	2	—	—	—	1	1	1
Cumberland	4	1	1	—	2	1	—	—	1	1
Kennebec	1	—	—	—	1	—	—	—	1	—
Knox	—	—	—	—	—	—	—	—	—	1
Lincoln	1	—	—	1	—	—	—	—	1	—
Penobscot	4	2	1	—	1	—	—	—	1	—
Somerset	4	2	—	—	2	—	—	—	2	1
York	3	1	1	1	—	—	—	—	1	—

FELONIOUS ASSAULT—APPEALS

Totals	5	2	—	—	3	—	—	—	3	1
Cumberland	5	2	—	—	3	—	—	—	3	—
Penobscot	—	—	—	—	—	—	—	—	—	1

ASSAULT AND BATTERY—INDICTMENTS

Dispositions	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence etc. (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	34	8	—	3	23	5	1	5	15	2
Androscoggin	1	—	—	—	1	—	—	—	1	—
Aroostook	7	—	—	—	7	1	—	3	3	—
Cumberland	5	2	—	—	3	1	—	—	2	—
Franklin	3	1	—	—	2	—	—	1	1	—
Hancock	1	—	—	—	1	—	—	—	1	—
Kennebec	4	1	—	—	3	—	1	1	1	—
Knox	2	1	—	—	1	1	—	—	—	—
Oxford	3	1	—	1	1	1	—	—	1	—
Penobscot	2	—	—	2	—	—	—	—	2	1
Piscataquis	1	—	—	—	1	—	—	—	1	—
Somerset	2	—	—	—	2	—	—	—	2	—
Washington	1	—	—	—	1	1	—	—	—	—
York	2	2	—	—	—	—	—	—	—	1

ASSAULT AND BATTERY—APPEALS

Totals	53	35	—	—	18	3	3	8	4	10
Androscoggin	4	1	—	—	3	—	—	3	—	2
Aroostook	4	3	—	—	1	—	—	1	—	—
Cumberland	8	5	—	—	3	—	1	—	2	—
Hancock	1	—	—	—	1	—	—	1	—	—
Kennebec	4	3	—	—	1	—	—	1	—	—
Lincoln	2	1	—	—	1	—	1	—	—	—
Knox	2	1	—	—	1	1	—	—	—	2
Oxford	5	3	—	—	2	—	1	1	—	—
Penobscot	9	5	—	—	4	2	—	1	1	2
Piscataquis	1	—	—	—	1	—	—	—	1	—
Somerset	1	1	—	—	—	—	—	—	—	1
Waldo	—	—	—	—	—	—	—	—	—	1
Washington	6	6	—	—	—	—	—	—	—	1
York	6	6	—	—	—	—	—	—	—	1

BREAKING AND ENTERING—INDICTMENTS

Dispositions	Total (a)	Nol-prossed etc. (b)	Acquitted	Convicted		Continued for Sentence etc. (d)	Probation (e)	Fine (f)	Imprisonment (g)	Pending at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	179	42	4	3	130	15	39	—	79	17
Androscoggin	20	7	—	—	13	6	2	—	5	3
Aroostook	3	1	—	—	2	—	—	—	2	—
Cumberland	37	4	—	—	33	—	4	—	29	—
Franklin	5	1	—	—	4	—	—	—	4	—
Hancock	8	3	—	—	5	1	2	—	2	—
Kennebec	12	1	—	3	8	1	4	—	6	1
Knox	1	—	—	—	1	—	—	—	1	1
Lincoln	5	—	—	—	5	—	2	—	3	2
Oxford	5	1	—	—	4	2	—	—	2	—
Penobscot	36	4	1	—	31	2	17	—	12	5
Piscataquis	5	2	—	—	3	—	1	—	2	1
Sagadahoc	7	1	—	—	6	3	—	—	3	—
Somerset	10	4	—	—	6	—	2	—	4	—
Waldo	1	—	1	—	—	—	—	—	—	1
Washington	9	2	—	—	7	—	5	—	2	—
York	15	11	2	—	2	—	—	—	2	3

FORGERY—INDICTMENTS

Totals	49	7	—	3	39	6	9	—	27	10
Androscoggin	9	2	—	—	7	4	1	—	2	6
Aroostook	11	—	—	—	11	—	1	—	10	1
Cumberland	3	1	—	—	2	—	1	—	1	—
Franklin	2	2	—	—	—	—	—	—	—	—
Hancock	1	—	—	—	1	—	—	—	1	—
Kennebec	8	—	—	1	7	1	—	—	7	—
Knox	2	—	—	—	2	—	—	—	2	—
Lincoln	1	—	—	1	—	—	1	—	—	2
Penobscot	1	—	—	—	1	—	1	—	—	—
Piscataquis	3	1	—	—	2	1	—	—	1	—
Somerset	5	—	—	—	5	—	3	—	2	1
Waldo	1	—	—	1	—	—	—	—	1	—
Washington	1	—	—	—	1	—	1	—	—	—
York	1	1	—	—	—	—	—	—	—	—

LARCENY—INDICTMENTS

Dispositions	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence etc. (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	209	47	4	9	149	23	40	7	88	39
Androscoggin	14	9	—	1	4	3	—	—	2	7
Aroostook	31	1	3	2	25	1	—	6	20	1
Cumberland	37	14	—	—	23	3	11	—	9	3
Franklin	3	1	—	—	2	—	1	1	—	2
Hancock	7	4	—	—	3	1	—	—	2	1
Kennebec	25	1	—	1	23	8	5	—	11	2
Knox	10	—	—	—	10	2	3	—	5	2
Lincoln	4	—	—	—	4	—	2	—	2	2
Oxford	9	—	—	1	8	1	1	—	7	1
Penobscot	31	6	1	2	22	3	9	—	12	12
Piscataquis	2	—	—	—	2	1	—	—	1	—
Sagadahoc	2	1	—	—	1	—	—	—	1	—
Somerset	8	1	—	—	7	—	1	—	6	—
Waldo	3	—	—	2	1	—	—	—	3	1
Washington	8	—	—	—	8	—	6	—	2	—
York	15	9	—	—	6	—	1	—	5	5

LARCENY—APPEALS

Totals	24	13	3	—	8	4	1	2	1	4
Androscoggin	3	3	—	—	—	—	—	—	—	2
Aroostook	1	1	—	—	—	—	—	—	—	—
Cumberland	1	—	—	—	1	—	—	—	1	—
Knox	1	1	—	—	—	—	—	—	—	—
Oxford	2	2	—	—	—	—	—	—	—	—
Penobscot	7	2	1	—	4	3	—	1	—	—
Piscataquis	2	—	2	—	—	—	—	—	—	—
Somerset	1	1	—	—	—	—	—	—	—	1
Washington	6	3	—	—	3	1	1	1	—	—
York	—	—	—	—	—	—	—	—	—	1

SEX OFFENSES—INDICTMENTS

Totals	104	37	7	9	51	21	3	1	35	31
Androscoggin	21	11	—	—	10	7	—	1	2	21
Aroostook	9	4	1	—	4	2	—	—	2	—
Cumberland	37	15	3	4	15	2	—	—	17	2
Hancock	5	2	—	—	3	2	—	—	1	—
Kennebec	8	—	—	2	6	3	—	—	5	—
Knox	1	—	1	—	—	—	—	—	—	1
Oxford	3	—	—	—	3	2	—	—	1	1
Penobscot	10	3	2	1	4	2	—	—	3	4
Somerset	2	2	—	—	—	—	—	—	—	—
Waldo	1	—	—	—	1	—	—	—	1	—
Washington	5	—	—	2	3	1	1	—	3	—
York	2	—	—	—	2	—	2	—	—	2

NON-SUPPORT—INDICTMENTS

Dispositions	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence etc. (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	31	25	—	—	6	1	1	1	3	23
Androscoggin	14	12	—	—	2	—	—	—	2	13
Aroostook	1	1	—	—	—	—	—	—	—	1
Knox	1	1	—	—	—	—	—	—	—	4
Lincoln	1	1	—	—	—	—	—	—	—	—
Oxford	6	4	—	—	2	1	—	1	—	1
Piscataquis	1	1	—	—	—	—	—	—	—	—
Somerset	1	1	—	—	—	—	—	—	—	1
Waldo	1	—	—	—	1	—	—	—	1	1
Washington	1	1	—	—	—	—	—	—	—	2
York	4	3	—	—	1	—	1	—	—	—

LIQUOR OFFENSES—INDICTMENTS

Totals	349	81	7	17	244	160	9	2	90	73
Androscoggin	149	20	—	—	129	115	1	—	13	19
Aroostook	24	7	1	2	14	7	—	1	8	12
Cumberland	42	18	—	2	22	12	1	—	11	3
Franklin	9	3	—	2	4	1	1	—	4	1
Hancock	1	—	—	—	1	—	—	—	1	1
Kennebec	24	3	—	4	17	9	—	—	12	1
Knox	3	—	1	—	2	2	—	—	—	1
Lincoln	8	4	1	—	3	—	2	—	1	—
Oxford	27	11	1	3	12	5	1	—	9	4
Penobscot	38	7	2	1	28	5	—	—	24	11
Piscataquis	4	2	—	1	1	1	—	1	—	—
Sagadahoc	2	1	—	—	1	1	—	—	—	—
Somerset	8	4	1	—	3	2	—	—	1	14
Waldo	1	—	—	—	1	—	—	—	1	—
Washington	2	—	—	—	2	—	1	—	1	1
York	7	1	—	2	4	—	2	—	4	5

LIQUOR OFFENSES—APPEALS

Dispositions	Total (a)	Nol-prossed etc. (b)	Ac-quitted	Convicted		Continued for Sentence etc. (d)	Probation (e)	Fine (f)	Imprisonment (g)	Pending at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	429	134	22	19	254	128	7	14	124	40
Androscoggin	105	5	—	2	98	75	—	4	21	9
Aroostook	43	27	1	1	14	4	—	10	1	5
Cumberland	101	37	9	6	49	25	2	—	28	2
Franklin	6	5	1	—	—	—	—	—	—	—
Hancock	2	1	—	—	1	—	—	—	1	—
Kennebec	31	4	1	2	24	10	—	—	16	5
Knox	16	7	2	—	7	4	—	—	3	1
Lincoln	2	1	—	—	1	1	—	—	—	—
Oxford	12	7	1	—	4	2	—	—	2	2
Penobscot	44	12	3	5	24	2	—	—	27	1
Piscataquis	5	—	1	—	4	2	—	—	2	—
Sagadahoc	1	—	—	—	1	—	—	—	1	—
Somerset	20	11	—	2	7	2	3	—	4	4
Waldo	1	—	—	—	1	—	—	—	1	—
Washington	7	3	1	—	3	1	—	—	2	—
York	33	14	2	1	16	—	2	—	15	11

DRUNKEN DRIVING—INDICTMENTS

Totals	23	6	—	2	15	2	5	2	8	3
Aroostook	2	—	—	—	2	—	—	—	2	—
Cumberland	6	4	—	—	2	—	—	1	1	1
Franklin	5	—	—	—	5	1	4	—	—	—
Hancock	—	—	—	—	—	—	—	—	—	1
Kennebec	4	—	—	1	3	1	—	1	2	—
Knox	1	1	—	—	—	—	—	—	—	—
Penobscot	1	—	—	1	—	—	—	—	1	1
Waldo	1	—	—	—	1	—	—	—	1	—
York	3	1	—	—	2	—	1	—	1	—

DRUNKEN DRIVING—APPEALS

Totals	143	35	7	10	91	7	5	42	47	18
Androscoggin	24	6	—	—	18	1	2	12	3	4
Aroostook	12	3	1	—	8	—	—	5	3	1
Cumberland	27	3	—	4	20	1	—	13	10	1
Franklin	5	3	—	—	2	—	1	—	1	—
Hancock	3	—	—	—	3	—	—	1	2	1
Kennebec	15	2	1	1	11	—	1	5	6	3
Knox	9	4	—	—	5	3	—	—	2	1
Oxford	2	1	—	—	1	—	—	—	1	—
Penobscot	24	4	5	3	12	1	—	6	8	6
Sagadahoc	1	1	—	—	—	—	—	—	—	—
Somerset	5	—	—	—	5	1	1	—	3	—
Waldo	3	1	—	—	2	—	—	—	2	—
Washington	3	3	—	—	—	—	—	—	—	—
York	10	4	—	2	4	—	—	—	6	1

DRUNKENNESS—APPEALS

Dispositions	Total (a)	Nol-prossed etc. (b)	Acquitted	Convicted		Continued for Sentence etc. (d)	Probation (e)	Fine (f)	Imprisonment (g)	Pending at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	105	26	—	—	79	8	15	15	41	5
Androscoggin	25	2	—	—	23	1	—	12	10	1
Aroostook	3	1	—	—	2	—	—	1	1	—
Cumberland	31	12	—	—	19	3	9	2	5	—
Franklin	2	1	—	—	1	—	1	—	—	—
Kennebec	5	—	—	—	5	1	1	—	3	—
Knox	5	1	—	—	4	2	—	—	2	—
Penobscot	23	4	—	—	19	—	4	—	15	—
Piscataquis	3	—	—	—	3	1	—	—	2	—
Somerset	1	1	—	—	—	—	—	—	—	—
Waldo	—	—	—	—	—	—	—	—	—	1
Washington	2	2	—	—	—	—	—	—	—	3
York	5	2	—	—	3	—	—	—	3	—

MOTOR VEHICLE VIOLATIONS—INDICTMENTS

Totals	6	2	—	1	3	1	—	2	1	—
Androscoggin	1	1	—	—	—	—	—	—	—	—
Aroostook	1	—	—	—	1	—	—	1	—	—
Cumberland	2	1	—	—	1	1	—	—	—	—
Franklin	1	—	—	—	1	—	—	1	—	—
Penobscot	1	—	—	1	—	—	—	—	1	—

MOTOR VEHICLE VIOLATIONS—APPEALS

Totals	91	62	4	4	21	4	2	16	3	8
Androscoggin	6	3	—	—	3	1	—	2	—	1
Aroostook	4	2	—	—	2	—	—	1	1	—
Cumberland	18	10	—	1	7	2	—	6	—	—
Franklin	2	1	—	—	1	—	—	1	—	—
Kennebec	21	16	—	—	5	1	1	3	—	1
Knox	6	6	—	—	—	—	—	—	—	—
Penobscot	13	7	4	1	1	—	—	2	—	4
Piscataquis	1	1	—	—	—	—	—	—	—	—
Sagadahoc	2	1	—	—	1	—	—	1	—	—
Somerset	3	3	—	—	—	—	—	—	—	—
Waldo	1	—	—	1	—	—	—	—	1	—
Washington	1	1	—	—	—	—	—	—	—	—
York	13	11	—	1	1	—	1	—	1	2

JUVENILE DELINQUENCY—INDICTMENTS

Totals	22	2	—	—	20	1	17	1	1	—
Penobscot	13	1	—	—	12	1	9	1	1	—
Piscataquis	9	1	—	—	8	—	8	—	—	—

MISCELLANEOUS—INDICTMENTS

Dispositions	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence etc. (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals.....	60	21	2	1	36	8	9	10	10	9
Androscoggin...	4	4	—	—	—	—	—	—	—	—
Aroostook.....	11	1	—	—	10	—	4	2	4	2
Cumberland....	8	3	—	—	5	1	—	2	2	—
Franklin.....	1	—	—	—	1	—	—	1	—	—
Hancock.....	2	1	1	—	—	—	—	—	—	—
Kennebec.....	2	—	—	—	2	—	—	1	1	1
Knox.....	1	1	—	—	—	—	—	—	—	—
Lincoln.....	—	—	—	—	—	—	—	—	—	1
Oxford.....	5	2	—	—	3	1	—	2	—	—
Penobscot.....	11	3	—	1	7	5	—	2	1	1
Piscataquis.....	2	2	—	—	—	—	—	—	—	1
Somerset.....	4	1	—	—	3	—	2	—	1	1
Washington	1	1	—	—	—	—	—	—	—	1
York.....	8	2	1	—	5	1	3	—	1	1

MISCELLANEOUS—APPEALS

Totals.....	141	66	11	6	58	13	6	38	7	14
Androscoggin...	29	3	—	—	26	5	—	21	—	—
Aroostook.....	9	4	3	—	2	—	—	2	—	1
Cumberland....	32	23	—	—	9	2	1	1	5	2
Franklin.....	5	2	3	—	—	—	—	—	—	—
Hancock.....	1	—	—	1	—	—	—	1	—	—
Kennebec.....	10	9	1	—	—	—	—	—	—	1
Knox.....	2	1	—	—	1	1	—	—	—	—
Lincoln.....	2	1	1	—	—	—	—	—	—	—
Oxford.....	1	1	—	—	—	—	—	—	—	—
Penobscot.....	23	10	3	2	7	2	1	5	1	8
Piscataquis.....	1	—	—	—	1	—	—	1	—	1
Sagadahoc	4	—	—	—	4	2	—	2	—	—
Somerset.....	7	5	—	—	2	—	2	—	—	—
Washington	5	2	—	—	3	1	—	2	—	—
York.....	11	5	—	3	3	—	2	3	1	1

CRIMINAL PROSECUTIONS IN THE SUPERIOR COURT OF MAINE FOR THE YEAR ENDING NOVEMBER 1, 1930

ALL COUNTIES—TOTAL INDICTMENTS AND APPEALS

Dispositions	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence etc. (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	1866	525	73	93	1175	393	193	127	555	346
Murder	7	—	1	—	6	—	—	—	6	—
Manslaughter	11	1	2	3	5	1	1	—	6	5
Rape	12	3	3	3	3	—	—	1	5	2
Robbery	7	—	—	1	6	—	2	—	5	2
Felonious Assault	24	5	3	4	12	1	2	—	13	5
Assault & Battery	104	40	2	6	56	16	9	14	23	17
B. E. & L.	165	22	5	2	136	35	39	2	62	27
Forgery	43	6	—	2	35	7	9	—	21	16
Larceny	225	73	9	10	133	45	41	7	50	41
Sex	93	35	4	2	52	17	9	2	26	25
Non-support	46	27	—	—	19	6	6	3	4	18
Liquor	661	169	25	38	429	207	33	10	217	87
Drunken Driving	131	28	9	11	83	9	7	29	49	29
Drunkenness	88	15	1	—	72	12	10	8	42	7
Motor Vehicle	79	40	3	4	32	9	1	21	5	23
Juv. Delinquency	21	4	—	—	17	4	12	—	1	1
Miscellaneous	149	57	6	7	79	24	12	30	20	41

ALL OFFENSES—INDICTMENTS

Totals	989	240	37	51	661	233	148	21	310	198
Androscoggin	153	21	6	3	123	86	20	3	17	86
Aroostook	85	27	2	4	52	2	15	3	36	11
Cumberland	203	65	4	12	122	34	19	2	79	21
Franklin	31	12	1	2	16	5	2	1	10	3
Hancock	28	5	3	2	18	4	5	1	10	1
Kennebec	49	1	—	7	41	8	13	1	26	—
Knox	21	7	—	1	13	3	5	—	6	6
Lincoln	16	5	—	—	11	2	4	—	5	9
Oxford	36	8	2	1	25	13	4	2	7	—
Penobscot	142	35	9	8	90	29	20	2	47	12
Piscataquis	8	1	1	1	5	—	3	—	3	4
Sagadahoc	16	1	—	1	14	2	1	1	11	3
Somerset	63	16	3	3	41	23	4	1	16	15
Waldo	30	8	1	1	20	8	3	2	8	9
Washington	17	7	1	—	9	1	3	1	4	1
York	91	21	4	5	61	13	27	1	25	17

ALL OFFENSES—APPEALS

Dispositions	Total (a)	Nol-prossed etc. (b)	Acquitted	Convicted		Continued for Sentence etc. (d)	Probation (e)	Fine (f)	Imprisonment (g)	Pending at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	877	285	36	42	514	160	45	106	245	148
Androscoggin	134	16	2	1	115	55	4	19	38	52
Aroostook	70	31	1	5	33	4	7	12	15	6
Cumberland	208	64	6	12	126	49	13	12	64	23
Franklin	25	16	—	—	9	2	1	2	4	1
Hancock	18	7	2	3	6	—	2	4	3	1
Kennebec	68	16	6	5	41	4	3	15	24	9
Knox	18	1	2	—	15	6	1	7	1	7
Oxford	12	3	—	—	9	7	1	—	1	—
Penobscot	152	51	9	9	83	17	8	12	55	26
Piscataquis	7	1	1	—	5	2	—	2	1	1
Sagadahoc	9	1	—	—	8	6	—	—	2	2
Somerset	29	17	1	—	11	1	2	3	5	1
Waldo	16	4	1	1	10	1	1	—	9	3
Washington	28	20	1	—	7	1	1	3	2	—
York	83	37	4	6	36	5	1	15	21	16

MURDER—INDICTMENTS

Totals	7	—	1	—	6	—	—	—	6	—
Androscoggin	1	—	1	—	—	—	—	—	—	—
Aroostook	1	—	—	—	1	—	—	—	1	—
Cumberland	2	—	—	—	2	—	—	—	2	—
Somerset	3	—	—	—	3	—	—	—	3	—

MANSLAUGHTER—INDICTMENTS

Totals	11	1	2	3	5	1	1	—	6	5
Androscoggin	2	—	1	—	1	—	—	—	1	2
Cumberland	2	—	—	2	—	—	—	—	2	—
Franklin	1	—	—	—	1	1	—	—	—	—
Oxford	1	—	—	—	1	—	1	—	—	—
Penobscot	1	—	—	1	—	—	—	—	1	1
Piscataquis	1	—	—	—	1	—	—	—	1	1
Washington	2	—	1	—	1	—	—	—	1	—
York	1	1	—	—	—	—	—	—	—	1

RAPE—INDICTMENTS

Dispositions	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence etc. (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals.....	11	2	3	3	3	—	—	1	5	2
Androscoggin...	—	—	—	—	—	—	—	—	—	1
Aroostook.....	1	—	—	1	—	—	—	—	1	1
Cumberland....	1	—	—	—	1	—	—	—	1	—
Knox.....	1	1	—	—	—	—	—	—	—	—
Penobscot.....	2	1	1	—	—	—	—	—	—	—
Washington	1	—	—	—	1	—	—	1	—	—
York.....	5	—	2	2	1	—	—	—	3	—

RAPE—APPEALS

Totals.....	1	1	—	—	—	—	—	—	—	—
Aroostook.....	1	1	—	—	—	—	—	—	—	—

ROBBERY—INDICTMENTS

Totals.....	7	—	—	1	6	—	2	—	5	2
Androscoggin...	—	—	—	—	—	—	—	—	—	1
Lincoln.....	3	—	—	—	3	—	1	—	2	—
Penobscot.....	1	—	—	1	—	—	—	—	1	—
Waldo.....	—	—	—	—	—	—	—	—	—	1
York.....	3	—	—	—	3	—	1	—	2	—

FELONIOUS ASSAULT—INDICTMENTS

Totals.....	24	5	3	4	12	1	2	—	13	5
Androscoggin...	1	—	—	1	—	—	—	—	1	2
Aroostook.....	2	1	—	—	1	—	—	—	1	—
Cumberland....	5	2	1	1	1	—	—	—	2	1
Franklin.....	1	—	—	—	1	—	—	—	1	—
Kennebec.....	4	—	—	1	3	1	—	—	3	—
Knox.....	1	—	—	—	1	—	1	—	—	1
Penobscot.....	5	—	1	1	3	—	1	—	3	—
Piscataquis.....	1	1	—	—	—	—	—	—	—	—
Sagadahoc	1	—	—	—	1	—	—	—	1	—
Somerset.....	3	1	1	—	1	—	—	—	1	1

ASSAULT AND BATTERY—INDICTMENTS

Dispositions	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence etc. (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	47	10	1	5	31	8	8	4	16	4
Androscoggin	2	—	—	—	2	1	1	—	—	2
Aroostook	3	—	—	1	2	—	—	2	1	1
Cumberland	16	5	1	1	9	3	1	—	6	1
Hancock	1	—	—	—	1	—	1	—	—	—
Kennebec	1	—	—	—	1	—	—	—	1	—
Lincoln	2	2	—	—	—	—	—	—	—	—
Oxford	1	—	—	1	—	—	—	—	1	—
Penobscot	1	—	—	1	—	—	—	—	1	—
Sagadahoc	1	—	—	—	1	—	1	—	—	—
Somerset	5	1	—	—	4	—	1	—	3	—
Waldo	6	—	—	—	6	3	1	1	1	—
Washington	1	—	—	—	1	—	—	—	1	—
York	7	2	—	1	4	1	2	1	1	—

ASSAULT AND BATTERY—APPEALS

Totals	57	30	1	1	25	8	1	10	7	13
Androscoggin	3	—	—	—	3	2	—	1	—	6
Aroostook	2	—	—	—	2	—	—	2	—	—
Cumberland	9	6	—	—	3	—	1	—	2	2
Franklin	1	1	—	—	—	—	—	—	—	—
Hancock	1	—	—	—	1	—	—	1	—	—
Kennebec	1	—	—	—	1	—	—	1	—	1
Knox	2	—	1	—	1	1	—	—	—	2
Oxford	2	—	—	—	2	2	—	—	—	—
Penobscot	16	7	—	—	9	3	—	2	4	—
Somerset	4	4	—	—	—	—	—	—	—	—
Waldo	2	1	—	—	1	—	—	—	1	—
Washington	8	8	—	—	—	—	—	—	—	—
York	6	3	—	1	2	—	—	3	—	2

BREAKING, ENTERING AND LARCENY—INDICTMENTS

Dispositions	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence etc. (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	165	22	5	2	136	35	39	2	62	27
Androscoggin	14	—	—	1	13	4	5	—	5	10
Aroostook	5	3	—	—	2	—	1	—	1	—
Cumberland	26	6	—	—	20	6	3	1	10	—
Franklin	11	5	—	—	6	3	2	—	1	—
Hancock	11	—	1	—	10	3	1	1	5	—
Kennebec	7	—	—	—	7	—	1	—	6	—
Knox	5	1	—	—	4	—	1	—	3	1
Lincoln	5	1	—	—	4	—	2	—	2	4
Oxford	5	—	1	—	4	2	2	—	—	—
Penobscot	27	3	1	—	23	5	7	—	11	1
Piscataquis	4	—	1	—	3	—	3	—	—	1
Sagadahoc	4	—	—	1	3	—	—	—	4	—
Somerset	11	—	1	—	10	8	1	—	1	1
Waldo	9	1	—	—	8	3	—	—	5	4
Washington	3	—	—	—	3	—	3	—	—	—
York	18	2	—	—	16	1	7	—	8	5

FORGERY—INDICTMENTS

Totals	43	6	—	2	35	7	9	—	21	16
Androscoggin	3	1	—	—	2	1	—	—	1	6
Aroostook	9	—	—	1	8	—	3	—	6	1
Cumberland	6	—	—	—	6	—	—	—	6	2
Hancock	1	—	—	—	1	—	1	—	—	1
Kennebec	7	—	—	1	6	2	3	—	2	—
Knox	1	—	—	—	1	—	—	—	1	—
Lincoln	—	—	—	—	—	—	—	—	—	2
Penobscot	7	2	—	—	5	1	—	—	4	1
Somerset	8	3	—	—	5	3	1	—	1	2
York	1	—	—	—	1	—	1	—	—	1

LARCENY—INDICTMENTS

Dispositions	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence etc. (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals.....	180	51	6	9	114	34	39	3	47	36
Androscoggin...	12	4	—	—	8	5	2	—	1	15
Aroostook.....	13	3	—	—	10	—	5	1	4	3
Cumberland....	52	17	1	2	32	8	12	—	14	4
Franklin.....	3	—	—	—	3	—	—	1	2	2
Hancock.....	8	3	2	1	2	—	2	—	1	—
Kennebec.....	20	1	—	3	16	4	8	—	7	—
Knox.....	3	—	—	—	3	—	2	—	1	1
Lincoln.....	1	—	—	—	1	1	—	—	—	1
Oxford.....	3	1	—	—	2	1	—	—	1	—
Penobscot.....	21	9	—	1	11	5	1	1	5	5
Piscataquis.....	1	—	—	—	1	—	—	—	1	—
Somerset.....	10	2	1	1	6	4	—	—	3	—
Waldo.....	12	5	1	1	5	2	2	—	2	—
Washington	3	2	—	—	1	—	—	—	1	—
York.....	18	4	1	—	13	4	5	—	4	5

LARCENY—APPEALS

Totals.....	45	22	3	1	19	11	2	4	3	5
Androscoggin...	11	7	—	—	4	1	—	3	—	4
Aroostook.....	2	2	—	—	—	—	—	—	—	—
Cumberland....	7	2	—	1	4	3	—	—	2	—
Franklin.....	3	1	—	—	2	1	—	—	1	—
Hancock.....	2	1	1	—	—	—	—	—	—	—
Kennebec.....	1	—	1	—	—	—	—	—	—	—
Oxford.....	1	—	—	—	1	1	—	—	—	—
Penobscot.....	6	2	—	—	4	1	2	1	—	1
Piscataquis.....	1	—	1	—	—	—	—	—	—	—
Sagadahoc	4	—	—	—	4	4	—	—	—	—
Waldo.....	1	1	—	—	—	—	—	—	—	—
Washington	3	3	—	—	—	—	—	—	—	—
York.....	3	3	—	—	—	—	—	—	—	—

SEX OFFENSES—INDICTMENTS

Dispositions	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence etc. (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	84	27	4	2	51	16	9	2	26	25
Androscoggin	25	7	1	—	17	11	5	—	1	8
Aroostook	7	4	1	—	2	—	—	—	2	—
Cumberland	16	7	—	—	9	—	—	—	9	4
Franklin	1	1	—	—	—	—	—	—	—	—
Hancock	4	1	—	1	2	1	—	—	2	—
Kennebec	5	—	—	—	5	1	—	1	3	—
Knox	1	—	—	1	—	—	—	—	1	—
Lincoln	2	—	—	—	2	—	1	—	1	—
Oxford	1	—	—	—	1	1	—	—	—	—
Penobscot	14	6	2	—	6	2	—	1	3	2
Piscataquis	—	—	—	—	—	—	—	—	—	2
Sagadahoc	3	—	—	—	3	—	—	—	3	1
Somerset	1	—	—	—	1	—	—	—	1	3
Waldo	—	—	—	—	—	—	—	—	—	3
York	4	1	—	—	3	—	3	—	—	2

SEX OFFENSES—APPEALS

Totals	9	8	—	—	1	1	—	—	—	—
Cumberland	2	2	—	—	—	—	—	—	—	—
Kennebec	2	2	—	—	—	—	—	—	—	—
Sagadahoc	1	—	—	—	1	1	—	—	—	—
York	4	4	—	—	—	—	—	—	—	—

NON-SUPPORT—INDICTMENTS

Totals	35	21	—	—	14	5	3	3	3	17
Androscoggin	13	7	—	—	6	5	1	—	—	5
Aroostook	1	1	—	—	—	—	—	—	—	1
Cumberland	3	—	—	—	3	—	—	—	3	1
Franklin	—	—	—	—	—	—	—	—	—	1
Kennebec	1	—	—	—	1	—	1	—	—	—
Knox	4	3	—	—	1	—	1	—	—	2
Lincoln	1	1	—	—	—	—	—	—	—	2
Oxford	5	3	—	—	2	—	—	2	—	—
Penobscot	—	—	—	—	—	—	—	—	—	2
Somerset	—	—	—	—	—	—	—	—	—	1
Waldo	1	—	—	—	1	—	—	1	—	1
Washington	3	3	—	—	—	—	—	—	—	1
York	3	3	—	—	—	—	—	—	—	—

NON-SUPPORT—APPEALS

Dispositions	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence etc. (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	11	6	—	—	5	1	3	—	1	1
Aroostook	2	1	—	—	1	—	1	—	—	1
Cumberland	3	—	—	—	3	—	2	—	1	—
Kennebec	2	2	—	—	—	—	—	—	—	—
Penobscot	3	3	—	—	—	—	—	—	—	—
Somerset	1	—	—	—	1	1	—	—	—	—

LIQUOR OFFENSES—INDICTMENTS

Totals	291	77	5	16	193	106	20	4	79	43
Androscoggin	73	2	3	1	67	55	6	3	4	27
Aroostook	32	12	—	1	19	1	3	—	16	3
Cumberland	65	25	—	5	35	16	3	—	21	4
Franklin	11	5	—	2	4	1	—	—	5	—
Hancock	2	1	—	—	1	—	—	—	1	—
Kennebec	4	—	—	2	2	—	—	—	4	—
Knox	4	1	—	—	3	3	—	—	—	1
Lincoln	1	—	—	—	1	1	—	—	—	—
Oxford	18	4	—	—	14	8	1	—	5	—
Penobscot	36	13	2	2	19	9	—	—	12	—
Piscataquis	1	—	—	1	—	—	—	—	1	—
Sagadahoc	4	—	—	—	4	1	—	—	3	1
Somerset	16	8	—	—	8	6	—	1	1	4
Waldo	1	1	—	—	—	—	—	—	—	—
Washington	2	1	—	—	1	—	—	—	1	—
York	21	4	—	2	15	5	7	—	5	3

LIQUOR OFFENSES—APPEALS

Totals	370	92	20	22	236	101	13	6	138	44
Androscoggin	58	2	1	—	55	40	—	1	14	15
Aroostook	42	20	1	2	19	3	5	—	13	3
Cumberland	87	22	5	7	53	32	1	—	27	16
Franklin	11	9	—	—	2	—	—	—	2	—
Hancock	2	—	—	1	1	—	—	—	2	—
Kennebec	32	1	2	3	26	4	3	4	18	2
Knox	7	1	1	—	5	3	—	1	1	—
Oxford	6	1	—	—	5	4	—	—	1	—
Penobscot	63	11	6	5	41	10	1	—	35	2
Piscataquis	2	1	—	—	1	—	—	—	1	—
Sagadahoc	2	—	—	—	2	1	—	—	1	1
Somerset	12	9	—	—	3	—	—	—	3	—
Waldo	5	1	1	1	2	—	1	—	2	1
Washington	7	3	1	—	3	—	1	—	2	—
York	34	11	2	3	18	4	1	—	16	4

DRUNKEN DRIVING—INDICTMENTS

Dispositions	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence etc. (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals.....	5	1	1	—	3	1	—	—	2	1
Aroostook.....	1	—	—	—	1	—	—	—	1	—
Cumberland....	2	—	1	—	1	1	—	—	—	1
Penobscot.....	2	1	—	—	1	—	—	—	1	—

DRUNKEN DRIVING—APPEALS

Totals.....	126	27	8	11	80	8	7	29	47	28
Androscoggin...	24	4	1	1	18	4	1	5	9	15
Aroostook.....	8	2	—	2	4	—	1	4	1	—
Cumberland....	27	8	—	3	16	—	1	4	14	1
Franklin.....	3	1	—	—	2	—	1	—	1	—
Hancock.....	5	1	1	1	2	—	—	2	1	1
Kennebec.....	16	5	2	1	8	—	—	5	4	1
Knox.....	6	—	—	—	6	2	1	3	—	2
Oxford.....	1	—	—	—	1	—	1	—	—	—
Penobscot.....	19	4	2	2	11	1	1	3	8	4
Somerset.....	3	—	—	—	3	—	—	1	2	1
Waldo.....	7	1	—	—	6	1	—	—	5	1
Washington....	1	1	—	—	—	—	—	—	—	—
York.....	6	—	2	1	3	—	—	2	2	2

DRUNKENNESS—APPEALS

Totals.....	88	15	1	—	72	12	10	8	42	7
Androscoggin...	19	—	—	—	19	2	1	1	15	2
Aroostook.....	4	2	—	—	2	—	—	2	—	—
Cumberland....	41	6	—	—	35	9	6	2	18	1
Franklin.....	1	1	—	—	—	—	—	—	—	—
Hancock.....	2	—	—	—	2	—	2	—	—	—
Kennebec.....	2	1	—	—	1	—	—	—	1	—
Penobscot.....	10	1	—	—	9	1	—	3	5	2
Sagadahoc.....	1	1	—	—	—	—	—	—	—	—
Somerset.....	2	—	1	—	1	—	1	—	—	—
Waldo.....	1	—	—	—	1	—	—	—	1	1
Washington....	2	2	—	—	—	—	—	—	—	—
York.....	3	1	—	—	2	—	—	—	2	1

MOTOR VEHICLE VIOLATIONS—INDICTMENTS

Totals.....	8	4	2	—	2	1	—	—	1	2
Cumberland....	2	2	—	—	—	—	—	—	—	1
Oxford.....	1	—	1	—	—	—	—	—	—	—
Penobscot.....	1	—	—	—	1	—	—	—	1	—
Sagadahoc.....	—	—	—	—	—	—	—	—	—	1
York.....	4	2	1	—	1	1	—	—	—	—

MOTOR VEHICLE VIOLATIONS—APPEALS

Dispositions	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence etc. (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	71	36	1	4	30	8	1	21	4	21
Androscoggin	7	2	—	—	5	3	1	1	—	6
Aroostook	4	—	—	—	4	—	—	4	—	1
Cumberland	15	10	—	1	4	3	—	2	—	3
Franklin	2	1	—	—	1	1	—	—	—	—
Hancock	1	—	—	1	—	—	—	1	—	—
Kennebec	10	5	1	—	4	—	—	3	1	4
Penobscot	10	6	—	1	3	1	—	1	2	4
Piscataquis	1	—	—	—	1	—	—	1	—	—
Somerset	4	2	—	—	2	—	—	2	—	—
Washington	1	1	—	—	—	—	—	—	—	—
York	16	9	—	1	6	—	—	6	1	3

JUVENILE DELINQUENCY—INDICTMENTS

Totals	15	—	—	—	15	4	10	—	1	—
Penobscot	15	—	—	—	15	4	10	—	1	—

JUVENILE DELINQUENCY—APPEALS

Totals	6	4	—	—	2	—	2	—	—	1
Franklin	2	2	—	—	—	—	—	—	—	—
Penobscot	2	—	—	—	2	—	2	—	—	—
Piscataquis	2	2	—	—	—	—	—	—	—	1

MISCELLANEOUS—INDICTMENTS

Totals	56	13	4	4	35	14	6	2	17	13
Androscoggin	7	—	—	—	7	4	—	—	3	7
Aroostook	10	3	1	—	6	1	3	—	2	1
Cumberland	5	1	—	1	3	—	—	1	3	2
Franklin	3	1	1	—	1	—	—	—	1	—
Hancock	1	—	—	—	1	—	—	—	1	—
Knox	1	1	—	—	—	—	—	—	—	—
Lincoln	1	1	—	—	—	—	—	—	—	—
Oxford	1	—	—	—	1	1	—	—	—	—
Penobscot	9	—	2	1	6	3	1	—	3	—
Sagadahoc	3	1	—	—	2	1	—	1	—	—
Somerset	6	1	—	2	3	2	1	—	2	3
Waldo	1	1	—	—	—	—	—	—	—	—
Washington	2	1	—	—	1	1	—	—	—	—
York	6	2	—	—	4	1	1	—	2	—

MISCELLANEOUS—APPEALS

Dispositions	Total (a)	Nol-prossed etc. (b)	Acquitted	Convicted		Continued for Sentence etc. (d)	Probation (e)	Fine (f)	Imprisonment (g)	Pending at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	93	44	2	3	44	10	6	28	3	28
Androscoggin	12	1	—	—	11	3	1	7	—	4
Aroostook	5	3	—	1	1	1	—	—	1	1
Cumberland	17	8	1	—	8	2	2	4	—	—
Franklin	2	—	—	—	2	—	—	2	—	1
Hancock	5	5	—	—	—	—	—	—	—	—
Kennebec	2	—	—	1	1	—	—	2	—	1
Knox	3	—	—	—	3	—	—	3	—	3
Oxford	2	2	—	—	—	—	—	—	—	—
Penobscot	23	17	1	1	4	—	2	2	1	13
Piscataquis	3	—	—	—	3	2	—	1	—	—
Sagadahoc	1	—	—	—	1	—	—	—	1	1
Somerset	1	—	—	—	1	—	1	—	—	—
Washington	6	2	—	—	4	1	—	3	—	—
York	11	6	—	—	5	1	—	4	—	4

FINANCIAL STATISTICS YEAR ENDING NOVEMBER 1, 1929

COUNTIES	Cost of Prosecution Superior and S. J. Courts	Paid for Prisoners in Jail	Paid Grand Jurors	Paid Traverse Jurors Criminal Cases	Fines, etc., Imposed Superior and S. J. Courts	Fines, etc., Collected Superior and S. J. Courts	Fines, etc., Collected All Courts
Androscoggin	$9,668.33	$29,015.84	$2,075.60	$11,486.60*	.....	.....	$9,144.92
Aroostook	8,767.80	3,224.37	1,553.36	2,800.00	$4,916.30	$1,492.65	12,116.12
Cumberland	36,014.40	33,728.19	2,081.16	4,816.12	11,228.30	8,619.54	32,536.48
Franklin	2,513.73	5,513.96	555.08	1,893.40*	2,680.54	1,047.72	2,033.32
Hancock	579.85	3,004.09	948.86	2,637.52*	536.87	536.87	536.87
Kennebec	4,242.09	11,158.20	363.68	3,940.72*	7,671.71	5,155.75	19,157.91
Knox	387.92	3,398.72	614.76	2,658.48*	1,842.56	451.54	988.54
Lincoln	1,111.47	1,218.68	488.60	260.00	540.33	340.33	340.03
Oxford	5,014.98	3,097.75	1,135.42	2,161.15	3,626.87	3,513.71	12,802.99
Penobscot	13,793.07	9,817.82	2,238.32	18,889.06*	12,760.21	7,303.13	36,311.51
Piscataquis	1,615.52	4,198.69	522.18	1,982.48*	1,417.10	304.65	2,786.27
Sagadahoc	271.56	1,225.65	312.70	895.88*	286.70	104.25	1,531.12
Somerset (Jan. T.)	797.84	2,413.75	1,043.52	4,226.78*	2,693.83	2,998.57	12,431.23
Waldo	1,549.01	1,357.50	672.12	800.00	594.14	260.37	314.29
Washington	1,323.57	1,272.21	840.72	240.00	632.67	632.67	1,037.12
York	4,119.47	9,932.52	1,373.40	1,890.00	7,736.86	1,003.85	20,566.73
Totals	$91,770.61	$123,577.94	$16,819.48	$61,578.19	$59,164.99	$33,755.60	$164,635.45

*Includes both Civil and Criminal Cases.

FINANCIAL STATISTICS YEAR ENDING NOVEMBER 1, 1930

COUNTIES	Cost of Prosecution Superior Court	Paid for Prisoners in Jail	Paid Grand Jurors	Paid Traverse Jurors Criminal Cases	Fines and Costs Imposed Superior Court	Fines and Costs Collected Superior Court	Fines and Costs Collected All Courts
Androscoggin	$8,039.58	$16,684.72	$1,936.24	$17,110.32*	$9,013.06	$9,013.06	$19,051.98
Aroostook	4,681.32	2,467.89	1,265.12	2,010.00	9,048.81	2,000.30	19,699.61
Cumberland	34,656.61	38,055.68	2,500.20	3,161.08	13,384.88	12,630.70	30,548.56
Franklin	2,333.12	5,965.33	467.72	1,853.31*	1,641.75	1,251.36	1,641.49
Hancock	1,212.53	3,024.63	1,056.79	2,714.10*	1,454.76	687.45	687.45
Kennebec	3,389.08	10,967.82	458.68	3,659.20*	.....	6,720.69	18,590.47
Knox	367.39	2,947.66	437.48	500.00	616.16	616.16	394.76
Lincoln	480.25	864.19	290.40	.....	84.46	84.46	763.47
Oxford	1,620.61	3,767.02	753.30	3,549.14*	699.56	538.10	14,250.83
Penobscot	10,905.09	11,631.03	1,724.60	16,332.97*	11,624.05	6,325.81	35,429.38
Piscataquis	791.31	3,963.98	481.34	200.00	496.09	373.19	4,590.54
Sagadahoc	648.91	3,019.82	404.40	932.32*	1,641.87	110.42	1,641.87
Somerset	5,417.25	4,440.95	1,229.12	4,964.68*	1,544.69	879.62	11,057.76
Waldo	2,604.04	1,746.00	760.98	600.00	802.67	353.32	925.58
Washington	2,014.49	1,811.25	797.18	180.00*	1,210.48	1,210.48	1,610.22
York	3,597.59	10,002.11	1,523.00	2,847.90	9,238.92	3,359.32	17,792.03
Totals	$82,759.17	$121,360.80	$16,086.55	$60,615.02	$62,502.21	$46,154.44	$178,646.00

*Includes both Civil and Criminal Cases

BAIL, 1929

COUNTIES	Bail Called, Cases and Amounts		Scire Facias Begun		Scire Facias Continued for Judgment		Scire Facias Cases Closed		Scire Facias Pending at End of Year		Cash Bail Collected	Bail Collected by Co. Atty.
Androscoggin	–	——	–	——	–	——	–	——	–	——	——	——
Aroostook	4	$2,100.00	–	——	–	——	–	——	–	——	——	——
Cumberland	1	1,000.00	–	——	–	——	–	——	5	3,500.00	——	——
Franklin	–	——	–	——	–	——	–	——	–	——	——	——
Hancock	3	2,000.00	1	500.00	–	——	–	——	1	500.00	——	——
Kennebec	1	500.00	1	500.00	–	——	–	——	1	500.00	——	——
Knox	–	400.00	–	——	–	——	–	——	–	——	——	——
Lincoln	–	——	–	——	–	——	–	——	–	——	——	——
Oxford	1	500.00	–	——	–	——	–	——	–	——	500.00	——
Penobscot	8	3,800.00	21	2,800.00	1	——	7	——	12	5,250.00	——	——
Piscataquis	3	1,500.00	6	1,500.00	–	——	6	80.16	–	——	80.16	——
Sagadahoc	–	——	–	——	–	——	–	——	–	——	——	——
Somerset	6	3,200.00	4	3,500.00	1	1,000.00	3	2,500.00	1	1,000.00	1,000.00	——
Waldo	–	——	–	——	–	——	–	——	–	——	——	——
Washington	3	1,100.00	3	1,100.00	3	1,100.00	–	——	3	1,100.00	——	——
York	18	8,210.00	4	860.00	4	860.00	–	100.00	1	60.00	3,600.00	100.00
Totals	48	$24,310.00	36	$10,760.00	5	$2,100.00	17	$2,680.16	24	$11,910.00	$5,180.16	$100.00

(Androscoggin missing)

BAIL, 1930

COUNTIES	Bail Called, Cases and Amounts		Scire Facias Begun		Scire Facias Continued for Judgment		Scire Facias Cases Closed		Scire Facias Pending at End of Year		Cash Bail Collected	Bail Collected by Co. Atty.
Androscoggin	208	—	6	$6,000.00	–	—	–	—	–	—	—	—
Aroostook	3	$1,500.00	2	1,000.00	–	—	–	—	2	$1,000.00	—	—
Cumberland	5	3,500.00	5	3,500.00	5	$3,500.00	–	—	5	3,500.00	—	—
Franklin	–	—	–	—	–	—	–	—	–	—	—	—
Hancock	–	—	–	—	–	—	–	—	–	—	—	—
Kennebec	–	—	–	—	–	—	–	—	–	—	—	—
Knox	1	200.00	1	425.97	1	425.97	–	—	1	425.97	200.00	—
Lincoln	–	—	–	—	–	—	–	—	–	—	—	—
Oxford	–	—	–	—	–	—	–	—	–	—	—	—
Penobscot	32	12,088.00	21	6,858.00	–	—	4	539.40	2	1,000.00	—	207.95
Piscataquis	–	—	–	—	–	—	–	—	–	—	—	—
Sagadahoc	–	—	–	—	–	—	–	—	–	—	—	—
Somerset	5	2,900.00	3	2,500.00	1	1,000.00	1	16.61	3	2,500.00	—	—
Waldo	–	—	–	—	–	—	–	—	–	—	—	—
Washington	–	—	–	—	–	—	–	—	–	—	—	—
York	12	5,700.00	2	1,000.00	–	—	1	500.00	–	—	4,100.00	—
Totals	266	$25,888.00	40	$21,283.97	7	$4,925.97	6	$1,056.01	13	$8,425.97	$4,300.00	$207.95

LAW COURT CASES, 1929
(To November 1, 1929)

Counties	Name of Case	Term of Entry in Law C'rt	Outcome in Law Court	Subsequent Proceedings in Superior Court
Androscoggin..	Alfred Gordon.....	Dec. '28	Excep. overruled	Committed
	Fred Loke.....	June '29	Excep. overruled	Committed
Aroostook.....	Harry Wood.....	Dec. '27	Judg. for State	Committed
Cumberland...	John T. Flaherty	Dec. '27	Judg. for State	Committed
	Joseph Begin.....	Dec. '28	Appeal dismissed	Committed
	Pietro Di Palma.....	June '29	Judg. for State	Committed
	Mary Ridge.....	June '29	Not entered	Committed
	Sarkis Keikorian.....	June '29	Judg. for State	Committed
	Margaret Buckley	Not ent.	Appeal dismissed	Committed
	Richard Moore.....	June '29	Appeal dismissed	Committed
	John J. Kelly.....	Dec. '29	Pending	
	Ernest C. Brown Mary Lovendale	Dec. '29	Pending	
Franklin.....	Hersey Wright.....	June '29	Pending	
	William Gammon....	Dec. '29	Pending	
Kennebec.....	Edwin T. Spencer....	June '29	Excep. overruled	Committed
	Isaac Danhy.....	June '29	Excep. overruled	Committed
	Romeo Ray.....	Dec. '29	Excep. sustained	Dismissed
	Walter Milligan.....	Dec. '29	Excep. overruled	Fined
	Blanchard Chapman .	Dec. '29	Excep. overruled	Committed
	Joseph Libby.....	Dec. '29	Excep. overruled	Committed
Hancock.....	.....	.....	.....	
Knox.....	.....	.....	.....	
Lincoln.....	.....	.....	.....	
Oxford.....	.....	.....	.....	
Penobscot.....	Rocas Leo.....	Dec. '28	Excep. overruled	Judg. for State
	Eno Haaparron.....	June '29	Excep. overruled	Nol-prossed
	John Williamson Rose Tuttle	Dec. '29	Pending	
	Ralph L. Perkins	Dec. '29	Pending	
	Thomas Rist.....	Dec. '29	Pending	
Piscataquis....	.....	.....	.....	
Sagadahoc	.....	.....	.....	
Somerset.....	Everett Stewart	Dec. '28	Judg. for State	Committed
	James Mallios, Alias..	Dec. '29	Pending	
Waldo.....	.....	.....	.....	
Washington ...	.....	.....	.....	
York.....	Louis Pelletier.....	.....	Excep. overruled	Committed
	Urbain Bolduc.....	June '29	Appeal dismissed	Filed

LAW COURT CASES, 1930
(To November 1, 1930)

County	Name of Case	Term of Entry in Law C'rt	Outcome in Law Court	Subsequent Proceedings in Superior Court
Androscoggin	Frank Sherry	Dec. '29	Excep. overruled	Committed
	L. C. Gove	Nov. '30	Pending	
Aroostook	Earl Beattie	May '30	Excep. sustained	Dismissed
	Harry Mooers	May '30	Excep. sustained	Pending
Cumberland	Ernest C. Brown / Mary Lovendale	Dec. '29	New trial ordered	Pending
	John J. Kelley	Dec. '29	Judg. for State	Committed
	Winfield S. Lamont	June '29	Judg. for State	Committed
	Salvaton Peachwall	June '30	Appeal withdrawn	Committed
	Arthur Paquette	Dec. '30	Appeal withdrawn	Committed
	Edith M. Renaud	Dec. '30	Appeal withdrawn	Committed
Franklin	Hersey Wright	June '29	Appeal sustained	Nolo–$200 & costs pd.
	Fred Quirrion	Feb. '30	Appeal dismissed	Committed
	William Gammon	Feb. '30	Excep. overruled	Pending
	James A. Pulsifer	Oct. '30	Pending	
Hancock	Chas. A. Weaver	Oct. '30	Pending	
Kennebec	Arthur Breton	April '30	Excep. overruled	Committed
	Ernest Braun	April '30	Excep. overruled	Fined
	Lester Yeaton	April '30	Excep. overruled	Fined
	James H. Rush	Sept. '30	Excep. overruled	Committed
	Fred Carey	Sept. '30	Excep. overruled	Committed
	Joseph Rancourt	Sept. '30	Excep. overruled	Committed
	Peter Jenners	Sept. '30	Excep. overruled	Committed
Knox				
Lincoln				
Oxford				
Penobscot	John Williamson / Rose Tuttle	Dec. '29	Appeal sustained	Nol-Prossed
	Ralph L. Perkins	Dec. '29	Excep. overruled	Committed
	Thomas Rist	Dec. '29	Appeal dismissed	Committed
	Linwood Smith	Sept. '30	Appeal dismissed	Committed
	Carl Hughes	Sept. '30	Excep. overruled	Nol-prossed
	Edward Hughes	Sept. '30	Excep. overruled	Nol-prossed
	Cecil H. Curtis	Sept. '30	Excep. overruled	Fined
	Richard Rist	Sept. '30	Excep. overruled	Committed
Piscataquis				
Sagadahoc	Chester Plant	Feb. '31	Pending	
	Arthur Plant	Feb. '31	Pending	
Somerset	James Mallios, alias	Dec. '29	Appeal dismissed	Committed
	Edwin E. Cates	Oct. '30	Appeal withdrawn	Nol-prossed
Waldo				
Washington				
York	N. J. Prescott	Jan. '30	Nol-prossed	Nol-prossed

OPINIONS FILED BY ATTORNEY GENERAL'S DEPARTMENT

STOCKS IN TRADE

October 18, 1929

Frank H. Sterling, Chairman,
Board of State Assessors,
Augusta, Maine.
Dear Mr. Sterling:

You inquire whether in my opinion stocks in trade of automobile dealers are exempt from taxation as property because of the new motor vehicle excise tax law, P. L. 1929, Chapter 305. I do not believe they are.

Before the excise tax was passed all automobiles including those forming a part of a dealer's stock were subject to property tax. Any dealer wishing to operate one of his stock cars on the highway must apply for and obtain dealer's plates; any private person wishing to operate an automobile on the highway must also obtain plates.

The new law says in general that before one obtains plates he must have paid the tax, dealers need not.

On the face of it the tax is on the privilege of using the cars measured by the yard stick of the value of the car. We cannot anticipate that a court will hold it anything else. The individual who wishes to obtain plates which entitle him to operate his car must have paid the tax. He then by the provisions of Section 77, is exempt from further taxation on his car for that year by his home town. Whether or not this exemption was necessary in order to make the tax legal we do not need to discuss. It was fair and there it is.

As it stands with the individual, therefore, he is only exempt from the property tax if he applies for plates and pays the excise tax. An individual who does not apply for plates and pay the excise tax does not come within the exemption of Section 77 and is liable for the tax. Theoretically perhaps, the assessors can assess for taxation the automobile of every individual and then abate the taxes on those cars whose owners during the year pay the excise tax. But as a practical expedient I suppose that the assessors will save circumlocution by omitting from the tax list individual cars which are registered or about to be registered.

Dealers, by Section 76, do not need to pay the excise tax when taking out dealers' plates. The theory appears to be, and reasonably, that these dealers' cars are not operated on the highway to a sufficient extent to require a heavy excise payment and, moreover, most of these cars are subsequently during the year to carry the burden of such an excise tax paid by the individual owner who is about to operate them. Neither Section 76 nor Section 77, however, exempt the dealer or anybody else from tax on the cars as property in the event that the excise

tax is not paid. It seems to me it can not have been the intention of the statute that the large total of property represented by the stock in trade of dealers was to be removed from the tax list.

The Tax Commissioner of Massachusetts informs me that an interpretation similar to the above is given in Massachusetts to the similar excise tax which was in effect in that state before ours was adopted; and a similar interpretation is given under similar laws in Minnesota (See Minnesota Assessors' Manual) and Oklahoma (Taylor v. Brown, 51 Oke. App. 5, June 1929).

This interpretation does not amount to double taxation because in the case of dealers' cars which are carried in stock for sale only one property tax is paid during the year, viz., the tax on the dealer with respect to his average stock. The cars which the dealer sells pay an excise tax if the new purchaser operates them but this is a tax paid by the purchaser for the privilege of operating the car and by the purport of the excise tax act is not a property tax; and in any event is a tax not paid by the dealer. Double taxation only occurs where the same person pays the same kind of a tax twice over on the same property.

Very truly yours,

(Signed) CLEMENT F. ROBINSON
Attorney General

EXCISE TAX—NON-RESIDENT LICENSES

January 8, 1930

Frank H. Sterling, Chairman,
Board of State Assessors,
Augusta, Maine

Dear Mr. Sterling:

You inquire whether a non-resident of Maine who has not had his personal car licensed in his home state should pay here the excise tax created by P. L. 1929, Chapter 305,—in case he is to use his car on our highways.

The answer depends on where the non-resident lives. If he lives in a state which gives certain reciprocal provisions to residents of Maine our statutes do not contemplate that he shall obtain his license or pay an excise tax in Maine. If he lives elsewhere my answer to your question is "Yes."

The Legislature in the motor vehicle law has distinguished these two classes of non-residents, and for very proper motives of public policy have given residents of reciprocal states a privilege under the motor vehicle license law which is confirmed and extended by the excise tax act.

To elucidate this conclusion let us first examine the excise tax law and the motor vehicle law to ascertain to what non-residents these laws apply.

By the first section of the excise tax act the excise is levied for the privilege of operating motor vehicles upon the public ways of the state. The general object of the statute is to subject every motor vehicle so operated to the tax. The section carries certain exemptions. It is familiar law that exemptions to a general tax law are to be construed strictly. Unless the non-resident can be brought within the exemption, therefore, he is liable to the tax.

The section exempts "persons registering under" Section 34 of P. L. 1921, Chapter 211.

This section 34 has been amended by P. L. 1925, Chapter 214; P. L. 1927, Chapter 161, section 1; P. L. 1927, Chapter 200. By it as amended a non-resident individual need not register his personal car in Maine if he has registered it in his home state, which gives a reciprocal privilege to Maine residents. Such non-residents are apparently "persons registering" under Section 34, viz.: they are persons registering in other states under such circumstances that they are exempted from registration in Maine.

A non-resident of Maine who lives in a non-reciprocal state cannot bring himself within the terms of this exemption. His car is not exempt from registration in Maine under Section 34, and he is, therefore, not exempt from the operation of the excise tax if he wishes to operate his car on our highways.

Secondly, let us examine the administrative provisions of the excise tax law. Section 78 of the law expressly requires a resident to pay his excise tax before he registers his vehicle. This section does not touch the case of the non-resident one way or the other. Officers administering the two laws find no express provisions to guide them in the place and manner of collecting the excise tax and granting the license to the resident of a non-reciprocal state who is liable to the tax and obliged to register in Maine.

The clue to the solution of this difficulty is, it seems to me, this: Section 78 is an administrative provision and as such not necessarily inclusive of all administrative requirements. Confronted with the problem of how and when to collect such excise taxes as are due from non-resident car owners, and finding no express administrative requirement in the statute, officials who have the duty of enforcing the excise tax law and the motor vehicle license law, will, I should say, find their guide by a consistent interpretation of the administrative provision of Section 78 by applying it to the similar situation presented.

In other words, a non-resident, just like a resident who applies for his license, should not obtain it unless he has paid the excise tax. Otherwise, the administrative provision operates to discriminate against residents of the state. It can hardly be conceived that the Legislature would have intended such a discrimination.

It would be unreasonable to rule that the administrative provision of Section 78 defining the method of collecting the excise tax from a

resident should be so considered as to confer on non-residents an exemption which is not contained in the section which sets out the tax and limits the exemptions.

In short, a non-resident individual who applies for a license for the operation of his personal motor vehicle upon the public ways of the state should be advised that if he lives in a non-reciprocal state he must pay an excise tax and obtain a license in Maine. An applicant from a reciprocal state should be advised to obtain his license from his own state.

You also inquire whether Spanish War veterans exempt from property tax are also exempt from excise tax on their automobiles. My answer is "No." This existing property tax exemption is not incorporated into the excise tax law which is based on the general theory of a tax for the use of the highway computed on the basis of property ownership. It is not a tax on the property owned, but is a substitute for that tax. The only exemptions from the excise tax are those which are mentioned in the excise tax law itself.

Very truly yours,

CLEMENT F. ROBINSON
Attorney General.

GASOLINE TAX—INTERSTATE SHIPMENTS

February 8, 1929

Hon. Elbert D. Hayford,
State Auditor,
Augusta, Maine
Dear Sir:

You inquire whether a shipment of gasoline from outside of the state by a foreign company consigned to itself within the state and diverted to one of its customers, a distributor, under our law, becomes taxable to the foreign corporation at the time of the diversion or is taxable to the customer.

This inquiry you base on the ruling of this department under date of March 31, 1927, to the effect that a shipment by a foreign company directly to its branch in this state is not taxable to the foreign company because it is in interstate commerce until received by the branch here although a shipment is taxable from the time when it is shipped from one branch of the foreign company within this state to another branch or other consignee.

Your question is a question of detail under the previous ruling and the answer depends on the mixed question of law and fact when the interstate commerce shipment ends.

It would be my opinion that probably in the circumstances which you state, the interstate shipment is ended and the intrastate shipment is begun at the moment when a diversion commences so that the gasoline would be taxable to the foreign company at that time. Small

circumstances one way or the other might make a difference. For instance, if a new bill of lading was issued, it would be quite plain that the intrastate shipment had begun. If merely a notation is made on the original bill of lading, this is not so clear. Again, if the original shipment has come to rest and stayed at the branch for any appreciable length of time, this would make it plainer that a new shipment had begun, but if it only came to rest briefly, it would look more as if the interstate shipment had continued until a final destination was reached.

Again, if employees at the first branch or plant inspected, examined or tested the shipment, it would tend to show that the original shipment had come to an end.

Probably no absolutely firm rule can be laid down because circumstances in the cases differ.

The proposed law now pending for amending and definitely defining a distributor will help to solve this problem if passed.

Yours very truly,

CLEMENT F. ROBINSON
Attorney General

HIGHWAYS—STREET RAILROAD TRACKS

December 13, 1929

State Highway Commission,
Augusta, Maine
Gentlemen:

In answer to your inquiry as to the necessity of providing a location for a street railroad outside of a public way which the railroad now occupies in order that the improved highway may be widened, I would call your attention to Chapter 58 of the Revised Statutes and especially sections 7, 8 and 21; section 7 being with reference to the petition for approval of location and proceedings thereon; section 8 being with reference to the application of the municipal officers of towns and cities for approval of the proposed route and location, and section 21 being with reference to the changing of the location of tracks in the street or highway. You will notice that in section 21 it is provided that under certain circumstances the municipal officers may change the location of the railroad within the limits of the street.

There does not appear to be any indication in the statute that the railroad company can be compelled by the municipal officers or any other state authority, except possibly the Legislature, to move its tracks outside the limits of the highway where it has been authorized to construct them.

A way laid out and constructed by the proper authorities is a public easement and the Legislature has the right to grant a right of way from such easement to a street railway who can share that easement with the general traveling public. I assume that the railroad to which

you refer is occupying a part of the highway lawfully, and that its location has been granted in accordance with instructions from the proper authorities.

The weight of authority seems to be that this being so, it constitutes a contract with the railroad which cannot be terminated by the municipal authorities or by the State Highway Commission, and I do not know of any way by which the railroad can be compelled to abandon a location thus granted to it.

In the case you mention I would suggest that it would be proper for you to provide a right of way outside the limits of the present highway for the new location of the railroad together with its necessary turnouts.

Very truly yours,

SANFORD L. FOGG
Deputy Attorney General

HIGHWAYS—CULVERTS

October 17, 1930

State Highway Commission,
Augusta, Maine
Dear Sirs:

You inquire regarding the expense of culverts under driveways to private property from state highways.

I confirm the ruling of my predecessors to the effect that in connection with construction work the State can properly bear the expense of replacing or constructing culverts under existing driveways or driveways which are planned at the time your construction work is going on. If the State did not bear this expense in connection with the construction work, the expense would be a reasonable item in a claim for damages which the adjoining landowner may file within six months after the road work is finished. Culverts so constructed should be reasonably adequate to give the landowner an approach to his premises, and to replace existing culverts. In case of a disagreement between the State Highway Commission and the landowner his recourse is to the courts in connection with a damage suit. In such case he would be entitled to an allowance for the reasonable expense to which he might be put in making his property as usable after a change of grade by the state highway construction as it had been before.

It does not seem to me that there is any obligation to construct culverts at the expense of the State after the construction has finished, and the six months period has elapsed. It is up to the landowner to secure adequate accommodation while the construction work is going on, or seek his redress in court within the statutory period thereafter.

Very truly yours,

CLEMENT F. ROBINSON
Attorney General

MOTOR VEHICLES—SPEED LIMITS

July 1, 1929

James W. Hanson, Chief,
State Highway Police,
Augusta, Maine
Dear Sir:

In your letter of June 21st, you ask for information as to "what is the legal limit which a motor vehicle may be operated on the highways of the State of Maine under the provisions of Chapter 327, Section 16, of the law to become effective July 13th?"

Subdivision A of Section 16 provides that a person driving an automobile shall drive the same at a careful and prudent speed, not greater than is reasonable and proper, having due regard to the traffic, surface and width of the highway, and of any other conditions then existing, etc.

Subdivision B of the same section provides the speed at which it is prima facie lawful to drive an automobile under different conditions. After mentioning the speed at which it is prima facie lawful to operate, and especially when passing schoolhouses, and at the intersection of ways and in the thickly settled portions of towns and cities, subsection 6 of subdivision B provides that in all other cases, thirty-five miles an hour is prima facie lawful.

Subdivision C of the same section provides that municipal officers in their respective jurisdictions are authorized in their discretion, but subject to the approval of the State Highway Commission, to increase the speed which shall be prima facie lawful upon through ways, at the entrances to which vehicles are required to stop before entering or crossing such ways.

Generally speaking, a person operating an automobile outside of the thickly settled portion of towns and cities, and at places where there are no intersecting ways and no schoolhouses, is not limited as to the rate of speed except that it must be reasonable and proper, having due regard to the traffic and existing conditions. Ordinarily in the open country, thirty-five miles an hour is the prima facie lawful limit, but a person is not limited to this rate of speed, but may lawfully drive at a greater speed, provided that such speed is not greater than is reasonable and proper under all the surrounding conditions.

Very truly yours,
CLEMENT F. ROBINSON
Attorney General

WORKMEN'S COMPENSATION

FORM LETTER

Dear Mr.....:

I am writing you as head of the Department of..... with reference to the working out of the Workmen's Compensation Act in your department. The administration of this statute in its application to state employees has not been definitely organized. I am anxious that my department, which now has charge of the procedure in all State compensation cases, should do everything possible to systematize proceedings for the benefit of all concerned.

Any employee of your department who meets with an accident in the course of his duties and in the scope of his employment is entitled to all the benefits of the Act as if he were employed by a private industrial concern. This means, of course, that he is entitled to the payment of proper medical and surgical expense resulting from the accident, and to compensation on the statutory basis up to a maximum of $18.00 per week for the period of any actual disability at and subsequent to the seventh day after the injury, in addition to specific payments in accordance with the statute for permanent disability or death.

At one time the payments to and for state employees in such cases came from the contingent fund, but under the present law these payments are charged against the appropriation for your department with the implication, of course, that the contingent fund must meet any deficit due to unforeseen payments in excess of the total department appropriation.

To your natural personal interest in favor of an employee of your department who is injured is therefore added your official interest by reason of the fact that payments are from your department appropriation.

On the other hand, the administration of the Workmen's Compensation Act is necessarily somewhat technical, and a systematic handling of the details of all workmen's compensation cases through one department should obviously save time and give beneficial results to all concerned.

My department is anxious to be of every service possible to you in working out this result. We bear toward your department in this respect much the same relation which an insurance company and its representatives bear toward an individual employer with the difference that the ultimate payments are made not by an outside insurance company, but out of the state treasury and against the department appropriation.

The following practical suggestions are made after consultation with the Chairman of the Industrial Commission and will, I trust, prove workable.

Immediately on learning that any employee in your department has met with an accident which appears to come within the protection of the Act, please make out a first report on the regular Industrial Accident Commission form. If this is made on typewriter please make it in duplicate. If you will forward the original and the duplicate to us we will forward the original for you to the Industrial Commission; but if you prefer to file the original direct please send us the duplicate, noting on it that original has been filed with the Commission.

If the accident is serious we would appreciate learning of it over the telephone.

If there is any doubt but that the employee is receiving adequate medical and surgical attention please let us know at once.

If you need any assistance in preparing the report let us know and we will be glad to help you draw it up.

If the employee is absent from work on or after the seventh day after the accident we will arrange for the drawing up of compensation agreements, and will obtain council orders so that compensation checks will be duly received by him. If medical or hospital bills are forwarded to you refer them to us for checking and payment.

If the employee is not disabled from work, or is absent less than seven days, please so state on the first report, or fill out and send us a supplemental report on the regular Industrial Accident Commission form; this also in duplicate. This enables us to compute any compensation due.

We should appreciate word from you from time to time as to the progress toward recovery of any disabled employees, and definite word when they return to work.

If it is the policy of your department to retain injured employees on the payroll in certain cases, and particularly where the exact extent of disability is doubtful, that of course is a matter within your own department and not for me to interfere with; but it should be borne in mind that this liberal interpretation of statutory compensation provisions is apt to make complications. For instance, the employee may subsequently claim permanent impairment and ask for the statutory specific allowance for a definite number of weeks. In such case when an employee has had temporary compensation under the Workmen's Compensation Act for an actual lay-off, either partial or total, the compensation payments are credited on the specific payment for permanent impairment, thus reducing the sum coming to him for permanent impairment; but if he has received no compensation as such under the Workmen's Compensation Act, he is in a position to receive over again the full allowance for his specific disability without any deduction for payments already received as wages.

Complications also come up with reference to hospital bills. If a disabled employee is actually receiving full pay, that part of his pay which is in excess of the workmen's compensation allowance should be applied toward his medical and hospital bills. The working out of this difference in figures may cause friction and misunderstanding.

The active administration of the details of the Act for my department is at present in charge of Richard Small, Esq., whose home office is 85 Exchange Street, Portland, but who will be frequently in Augusta to give assistance on and to work out the cases. Either Mr. Small or myself would be very glad indeed to talk with you at any time with regard to general problems or any particular questions arising under the Act to the end that it may be administered with my department cooperating with yours to the best interests of all concerned.

Very truly yours,

CLEMENT F. ROBINSON
Attorney General

REFERENDA

November 25, 1929

Dr. Ernest H. Gruening,
Portland, Maine
My Dear Dr. Gruening:

Because of the interest taken by the public during the last few weeks in the action of the Governor on the referendum petitions, I am glad to carry out your suggestion and set forth in a public letter my understanding of the principles of law which rule the action of the Executive in such cases, which I studied out when advising with him on the petitions. Letters that I have received recently and the discussion in the newspapers indicate that there may be some current misunderstanding of the law.

Fundamentally, the Executive must follow the law

First and fundamentally, the Governor in passing on the validity of referendum petitions, must be governed by law. His conclusion is final; no court or legislature can review or reverse it. But he must be guided in reaching his conclusion by the rules enunciated by the courts for testing and finding the facts.

Any other principle would lead to anarchy. To criticize the Executive for carrying out the law as defined by the courts would show a misapprehension of our system of government, thoughtless, careless or misinformed; or else would be Bolshevism.

Lapse of time after law is settled is legally immaterial

It is a well settled corollary to this fundamental constitutional principle that mere lapse of time after the announcement of a positive principle of law by a court does not change the principle. Chief Justice Marshall's ruling in the famous cases of Marbury v. Madison, the Dartmouth College case and other landmarks of Federal Constitutional law stand as the law of the nation, although they were put forth a century ago. A court's positive statement of constitutional law whenever made stands effective. No good citizen will set himself above this

law, or try to justify a breach of law by an assumption that the court, from changing personnel and lapse of time, would reverse itself if called on anew.

Where the law is found

For the law which defines the duty of the Governor on referendum petitions we can look to but two sources,—the Constitution of the state, and the decisions of our Law Court interpreting the Constitution. There are no statutes.

The Referendum Amendments

The Constitutional provisions are comprised in the thirty-first amendment to the Constitution, known as the Initiative and Referendum Amendment, adopted in 1908. Section 17 and a portion of Section 20 of that amendment are as follows:

> "Sec. 17. Upon written petition of not less than ten thousand electors, addressed to the governor and filed in the office of the secretary of state within ninety days after the recess of the legislature, requesting that one or more acts, bills, resolves or resolutions, or part or parts thereof passed by the legislature, but not then in effect by reason of the provisions of the preceding section, be referred to the people, such acts, bills, resolves, or resolutions or part or parts thereof as are specified in such petition shall not take effect until thirty days after the governor shall have announced by public proclamation that the same have been ratified by a majority of the electors voting thereon at a general or special election. As soon as it appears that the effect of any act, bill, resolve, or resolution or part or parts thereof has been suspended by petition in manner aforesaid, the governor by public proclamation shall give notice thereof and of the time when such measure is to be voted on by the people, which shall be at the next general election not less than sixty days after such proclamation, or in case of no general election within six months thereafter the governor may, and if so requested in said written petition therefor, shall order such measure submitted to the people at a special election not less than four nor more than six months after his proclamation thereof."
>
> "Sec. 20. As used in either of the three preceding sections * * * 'written petition' means one or more petitions written or printed, or partly written and partly printed, with the original signatures of the petitioners attached, verified as to the authenticity of the signatures by the oath of one of the petitioners certified thereon, and accompanied by the certificate of the clerk of the city, town or plantation in which the petitioners reside that their names appear on the voting list of his city, town or plantation as qualified to vote for governor."

Clue to its interpretation; the referendum is legally a privilege

The Referendum Amendment has been applied in several decisions of the Law Court which I will mention. The clue to the interpretation and application of these decisions is this: The Referendum Amendment confers a privilege which was new to our system of government. To make this privilege available in any case, all the preliminary requirements imposed by the Amendment itself must be strictly conformed to.

Examples of similar legal privileges

Analogies to the privilege of voting and the privilege of making a will illustrate this point.

The unthinking person might say that everyone in the community should vote. Perhaps an approximation to this result will eventually be reached, but the history of the suffrage shows that the privilege of voting has always been safeguarded. Successive bars have been let down only after careful consideration and discussion. Men and women, citizens of Maine above the age of twenty-one who can read and write may now enroll and vote; but many residents of the State who have an actual capacity to take an intelligent part in public affairs are debarred at every election because they are not citizens of the state, have not acquired a voting residence, have omitted to go through the formalities necessary for enrollment on the voting list, were deprived of an education in their youth through no fault of their own, or on election day are confined to their homes by illness. The Constitution and the statutes indicate that the community feels that it is better for the community that these competent individuals should be deprived of the right of sharing in the election of officials than that the opportunities for fraud and mistake should exist from further extension of the suffrage, or a voting by proxy.

Again it may seem to the ordinary citizen that his right to dispose of his property at, or in anticipation of his death, should not be limited by the technical requirement of a will signed by himself and three witnesses in each others' presence. Such, however, is definitely the law coming down from generations of past experience. Recently suggested modifications with respect to bank deposits show that the policy may be altered in the future, but it is safe to say that every modification will be limited in effect by the general principle that the right to convey one's property at or in anticipation of one's death, is a privilege which the law permits. Only one who conforms to the technical requirements of the law can avail himself of the privilege.

The four reported cases on referenda

The Law Court has considered the Referendum Amendment on four occasions.

In 1915 Governor Curtis submitted thirteen questions to enable him to determine whether or not the referendum had been duly in-

voked on the Act of the Legislature of 1915 dividing the Town of Bristol. These questions are found in 114 Me. 557. The answer of the Law Court follows on Page 564. Applying the principles so laid down, Governor Curtis found that the referendum had not been properly invoked.

Next, in 1917, Governor Milliken submitted nineteen questions to the Law Court bearing on referenda on four Acts of the Legislature of 1917 concerning respectively Inland Fisheries, Sea and Shore Fisheries, a Police Commission for the City of Lewiston, and a State Paper. These questions are found in 116 Me. 557. The answers of the Law Court follow on Page 566. Applying the rules which the Court laid down, referenda in these four cases also were withheld from the people.

In 1919 a referendum was invoked on the Resolve of the Legislature ratifying the Eighteenth Amendment to the Federal Constitution. On inquiry made by Governor Milliken of the Law Court, reported in 118 Me. 544, the Court again analyzed the referendum amendment, and in its answer to the Governor's question, held the referendum inapplicable, and it was withheld from the people.

Finally in 1927 the Senate requested the opinion of the Justices on signatures to initiative petitions then pending before the Senate. The Court in its reply reported in 126 Me. 621, answered the questions. The Legislature declined to pass the initiated law; the Governor subsequently submitted it to the people and it failed of adoption.

These cases put it up to the Governor to be almost skeptical of petitions filed

All these cases consistently impose upon the Governor a duty which may be aptly summarized in the monition that he should be critical of petitions submitted almost to the point of skepticism. The point of view of the Law Court in its answers to all the questions submitted is wholly negative against the validity of the petitions, and in almost no respect positive in their favor, and this same point of view the Court imposes on the Governor. The Court puts the whole burden of proof upon the proponents of a referendum.

The Governor must look for defects and exclude defective names. He has no right, power or duty to help along a lame petition. Every defective petition or name which comes to his attention must be cut out from the count; in no case can he add to or supplement favorably a defective petition.

The Court puts it up to him in such language as this:

> "There is no power to pass on this question except that conferred upon the Governor." (116 Me. 579).
>
> "The Governor alone is clothed with the power to determine and declare whether in a given instance it appears that the required number of bona fide electors have so expressed themselves." (116 Me. 581).

The Court says that:

"The rights of the people in having a law passed by the legislature take effect, may be thwarted by having the referendum invoked by less than then thousand actual electors." (116 Me. 579).

Again on Page 581 of the same case, the Court says:

"It was not intended that a non-emergency measure should be suspended beyond the ninety-day limit unless ten thousand bona fide electors should so express their individual wish and ask for a referendum to the people."

In short, the referendum is a privilege and the people cannot have it unless they legally deserve it; and the Governor has the duty of blocking the way when the privilege has not been legally earned.

Nevertheless, valid petitions are easily prepared

From all this it is not to be concluded that proponents of a referendum need feel hopeless.

Really, although the Law Court has concerned itself with the many defects which require a Governor to eliminate referendum petitions, in whole or in part, nevertheless it is plain that after all it is a simple matter to submit referendum petitions that conform to law. During the twenty years since the referendum amendment has been a part of our system several referenda have been requested which the Governors have found, after careful examination to be duly and legally invoked. These have, therefore, been duly submitted to the people.

Before classifying the possible defects for which the Court has instructed the Executive to eliminate petitions, it will perhaps be worth while to summarize simply the affirmative requirements which, if conformed to, justify the Executive in validating a petition. These might well be printed on future referendum petitions for the instruction of petitioners.

1. Individuals must sign with their own hands. A signature by proxy, agent or typewriter is no more valid than would be a vote by proxy. (116 Me. p. 578, A7A; 579, Q8).

The Court says:

"In a sense, the signatures on referendum petitions take the place of votes at an election. No one can act as proxy for a voter. Each must express his individual wish by signing his own name or making his own mark."

On the other hand signatures by mark (116 Me. 563, Q11), or by using initials (116 Me. 576, Q 5A, 5B; 577, Q6A) are legally proper.

2. One of the signers of the petition must make the verifying certificate. (114 Me. 568, Q1; 570, Q6; 116 Me. 586, Q17). A town clerk who is a signer may, however, be also the verifying petitioner. (116 Me. 573, Q2).

3. The certificate of the verifying petitioner must state his knowledge that all the signatures are valid. (114 Me. 567). Mere clerical errors in this verifying affidavit can, however, be disregarded. (See instance given in 116 Me. 585, Q15B; 114 Me. 574, Q12). A Notary Public who takes the affidavit need not annex his seal. (116 Me. 586, Q18).
4. The verifying petitioner must in fact know that the signatures are genuine. The Law Court defines the basis of his knowledge in 126 Me. 622, Q3. The easiest way to fulfill this requirement is for the verifying petitioner to see the signing; but to some degree his verification will cover knowledge of the signing gained in other ways although it will not extend to justifying his certification based simply on hearsay. (126 Me. 622).
5. The town clerk must certify that the signers including the verifying petitioner are voters,—and here also clerical errors in his certificate may be disregarded.

   (In addition to citations under 3 above see 114 Me. 575, Q 13; 116 Me. 585, Q15A.)
6. The town clerk must in fact know that the signers are voters. (See citations under 3 and 4 above). Definite evidence would be required to contradict his affidavit to that effect. (116 Me. 560, 571, 572, Q1A, 1B, 1C).
7. The completed petition must be filed with the Secretary of State during the ninety days. No amendment can be permitted thereafter. (114 Me. 567).
8. Where several documents are pasted or fastened together they comprise but one valid petition as to the names preceding the verification and town clerk's certificate. Additional documents subsequently annexed must be disregarded. (114 Me. 568 and following pages; 116 Me. 573, Q3; 116 Me. 586, Q16).
9. A petition duly verified by one of the signers and also by the town clerk is valid irrespective of whether the verifier's or town clerk's affidavit were first annexed. (116 Me. 574, Q4).

Briefly, how it can be done

In short, we have a fairly simple problem which can be summarized thus: a referendum petition is effective for all actual signers who are voters provided that one of them certifies from his own knowledge, and actually knows, not merely by hearsay, the validity of all the signatures; that the town clerk certifies correctly to the voting list; and that the complete petition is filed within ninety days.

But the Governor must legally take a different viewpoint

This approaches the problem from the point of view of the persons invoking the referendum. The Governor, however, is concerned with the problem from the opposite point of view. It is up to him to throw out signatures and petitions unless the requirements are conformed

with. In other words, under the law it is plainly his duty not to seek affirmatively for grounds on which to sustain petitions or invalidity of signatures, but to inquire carefully into the reasons for eliminating signatures and petitions.

What former Governors have done

That previous Governors have seen their duty in this light is clearly indicated by the large proportion of referendum petitions which have been withheld from the people.

The figures are difficult to obtain because there is no provision of law requiring the Secretary of State or any other official to keep a permanent record of referendum petitions submitted to the Governor and no requirement for a proclamation by the Governor or other official when a referendum has been withheld after examination of the petitions, or has failed of adoption by the people after being submitted.

I do find, however, that there have been at least eight referenda withheld from the people prior to 1929 as against thirteen submitted. This covers the twenty years that the Referendum Amendment has been in effect.

In addition to the South Bristol Act withheld by Governor Curtis, and the four Acts withheld by Governor Milliken already referred to, Governor Baxter withheld the Owls Head-South Thomaston Act in 1921; and Governor Brewster withheld the initiative on the direct primary in 1925, and the gas tax referendum in 1927. This gives the total of eight.

On the other hand, three Acts were submitted in 1911; one in 1913; one in 1917; one in 1921; two in 1923; two in 1925; one in 1927; one in 1928,—a total of twelve.

The Governor's duty; to discard all petitions prima facie defective

Upon the problem which confronts the Governor when referendum petitions are submitted to him, it is clear that his procedure must be this:

(1) He must first determine whether or not the petitions are, on their face, valid. These that he eliminates for invalidity on their face are eliminated finally. No correction can subsequently be made, and no inquiry into the circumstance of their signature and filing is permissible. The petitions thus thrown out may incorporate hundreds of signatures of citizens signing in absolute good faith, may comprise the conscientious work of canvassers of the highest standing, nevertheless it is absolutely illegal for the Governor to receive any evidence or to give any consideration whatever to these circumstances if the petitions lack any of the prima facie requirements of the Constitution as elucidated by the Court. Any temptation to vary law to meet circumstances must be resisted not only by public officials, but also by every good citizen, otherwise the very foundations of our government are imperilled.

The Court has said in 116 Me. 568, that:

> "In order to warrant the counting of names on a petition, the petition itself must be filed within ninety days after the recess of the legislature and in form must contain two prerequisites, first a verification as to the genuineness of the signatures by a certified petitioner on said petition, and second, an accompanying certificate of the city, town or plantation clerk that the names of the petitioners appear on the voting list as qualified to vote for Governor. The former must be under oath, the latter need not be. The constitution itself prescribes these two indispensable accompaniments of a valid petition, and a petition which lacks either or both of these requirements is invalid and cannot be counted. Nor can a paper purporting to be a petition, which is invalid at the expiration of the prescribed time be rendered valid thereafter by the addition or correction of either the verification by the co-petitioner or the certification by the municipal clerk."

Previously the Court had said, 114 Me. 567:

> "A petition wanting either of these constitutional requirements is not a petition within the meaning of section 17 of the amendment. A paper that is not a constitutional petition within the ninety days cannot be made so afterward by adding affidavit or certificate. To do so would be in effect to extend the constitutional limitation of ninety days. The provision of the constitution is explicit and mandatory. In our opinion, the Governor is authorized to count the names only on such petitions as comply with the requirements of the constitution, and of those, only such as were filed within ninety days after the recess of the legislature."

His next duty; discard also petitions and names not actually valid even when prima facie valid

(2) Next, it is the duty of the Governor to examine with critical eye any petitions which are on their face regular in form, but which may be wholly or partly ineffective because of other considerations which come to his attention. To this end it is his duty to inquire into the actual circumstances with reference to signatures and verifications on any questioned petitions.

The duty of the Governor to test the petitions as they stand by the facts as he finds them to be is set forth in 116 Me. 579, where the Court says:

> "We think under this constitutional amendment the implied power to receive such evidence exists in the Governor, to whom it must 'appear' that not less than ten thousand electors have addressed him by petition, to inquire into and ascertain whether that number have addressed him and whether forgeries have been practiced upon him. If he finds after due notice to the interested

parties and especially to the verifying petitioner, the truth of whose verification is at stake, that forged signatures have been filed with him, it is his duty to reject them. A forged signature is no signature, and to hold otherwise is to make the verification on the petition conclusive upon the Governor, however firmly he may believe that fraud exists. 'The law abhors fraud' and stamps upon it whenever it appears. If the Governor is helpless to protect himself from fraud and forgery when it exists then the rights of the people in having a law passed by the legislature take effect, may be thwarted by having the referendum invoked by less than ten thousand actual electors."

And again in 126 Me. 622, in answering questions put by the Senate, the Court says:

"What constitutes personal knowledge sufficient to warrant verification is a matter within the sound judgment of the body, which must act upon the petition, which tribunal may also determine for itself the nature of the evidence it will receive upon this question and its weight."

In 116 Me. 569, Q 1A, 1B, the majority of the Court rules that evidence against the prima facie validity of the town clerk's certificate should be precise and definite, but even in this single instance where the Court has put on the brakes, Judge Spear dissented and felt that a mere letter was a sufficient basis for cancelling a city clerk's official return. (116 Me. 588).

Summary of circumstances which require him to eliminate petitions or names

Summarizing now from the point of view of the Governor some of the circumstances which oblige him to eliminate signatures or petitions, we have these cases among others:

1. He must eliminate as a whole any petition which was not filed complete within ninety days. (114 Me. 567); or which has a town clerk's signature made by his deputy or stenographer. (114 Me. 573, Q11); or which has a verifying petitioner who was not a signer of the petition. (114 Me. 568, Q1; 114 Me. 570, Q6; 116 Me. 568, Q17); or which has a verifying petitioner who is not certified as being a voter. (114 Me. 572, Q8). Even an inadvertent error in these respects cannot be corrected. (114 Me. 573, Q10).
2. He must eliminate all signatures not certified to by the town clerk, and all not included in the verification of the verifying signer. (116 Me. 582, 585, Q10, 12, 13, 14; 114 Me. 572, Q9).
3. Where several documents are annexed he must eliminate all signatures which do not precede the verifying affidavit and town clerk's certificate. (114 Me. 568-571, Q2-7; 116 Me. 573, Q3; 585, Q16).

4. On a further examination into the circumstances of those petitions which are on their face valid he must eliminate any petitions where there was fraud or error on the part of the town clerk. (116 Me. 581, Q9). Also he must eliminate all signatures which were not made by the actual voter (116 Me. 578, Q8), and he must eliminate all signatures of persons who cannot be actually attested as signers by the verifying petitioner according to the test laid down by the Law Court in their instructions on the subject in 1927. (126 Me. 622, Q3).

If he finds 10,000 *valid signatures are lacking that ends it*

It is plain that in the course of carrying out his duty, if the Governor finds that he must eliminate petitions and names which bring the total below ten thousand, it is unnecessary for him to inquire further. The burden of proof is on the petitioners to establish the validity of ten thousand signatures and as soon as the Governor is satisfied that there are less then ten thousand his duty is clear to refuse to submit the referendum. Here again it might look strange for the referendum to be refused if the petitioners lack but one or two of the necessary ten thousand, but many an election has turned on as small a margin as that. In a particular way the ten thousand signatures constitute an election; unless the ten thousand are obtained the election fails.

The Constitution outlines no further duty upon the Governor in cases where he has found the referendum petitions ineffective. No formal proclamation is required, and I find from newspaper files that in recent years the Governor who disallows a requested referendum has not proclaimed his findings in much detail. The Governor is fettered in his action on the referendum petitions by the strict wording of the Constitution as interpreted by the courts, but he has no duty to promulgate in detail the results which the law has often obliged him to reach.

New legislation

To suggest changes in the law is not within the necessary purport of this letter. Section 22 of the referendum amendment permits the Legislature to "enact further regulations not inconsistent with the Constitution for applying the people's veto and direct initiative." Up to the present time the Legislature has preferred not to supplement the Constitution with such legislation, but has left the officials, in accordance with the section which is quoted, to be "governed by the provisions of this Constitution or the general law."

Legislation in certain details might well be proper; for instance, a requirement that the Secretary of State make a permanent record of petitions submitted, and a requirement that proclamation be made and published in the public laws of the result of all requested referenda.

Other more substantial changes might aid in carrying out more effectively the purpose and content of the amendment. The interpretation which the Law Court has given to the Constitution as it stands without legislation, has, however, cast the administration of the amendment into a mould which it is doubtful if the Legislature has the authority to break or substantially alter. In so far as there is reasonable criticism of the manner in which the amendment under the existing rulings must be enforced, however, it is, of course, the privilege of the Legislature to consider and pass such legislation as may be constitutional. Beyond that the remedy, if any is needed, is for the people, who have it within their power to alter or amend the Constitution at any time. In this letter, I have, however, been concerned with the situation as it legally is and not with possible changes.

Very truly yours,

CLEMENT F. ROBINSON
Attorney General

GRAND JURY REPORTS—LEWISTON BALLOT FRAUDS

STATE OF MAINE

Androscoggin, ss.

AT THE SUPERIOR COURT, begun and holden at Auburn, within and for the County of Androscoggin, on the first Tuesday of October in the year of our Lord one thousand nine hundred and twenty-nine.

The Grand Jurors for said County, having been called together in special session for the purpose of inquiring into the count of ballots in the recent state referendum election in the City of Lewiston, have examined carefully into the circumstances and have had presented to them the testimony of a great many witnesses, including police officers in attendance while the count was in progress, wardens and ward officers present while the count was going on, certain bystanders and all persons who participated in the counting of the ballots Wards One to Six inclusive.

We respectfully report as follows:

Under the statutes and the law as they stand we are unable to find sufficient evidence to enable us to bring in any indictment against any persons of person for any acts in connection with this election and count of ballots.

We are, however, convinced that in several of the wards and particularly in Wards Three, Four and Five, the miscount on election night, which was proved by the recount to have been made, was so grossly inaccurate and incorrect that we can only conclude that there was wrongdoing on the part of some at least of the persons participating in the original count.

We are, however, blocked from bringing in an indictment partly because of the absence of definite proof as to the particular person or

persons who participated in this wrongdoing and partly by the lack of what seems to us adequate statutes to prevent such wrongdoing and to enable it to be detected if and when it occurs.

We feel so strongly that statutory changes should be made which would make any such similar occurrence difficult to accomplish and possible to detect that we take this opportunity to make some recommendations which we respectfully submit to the Court with the hope that it will receive some publicity and perhaps accomplish some good.

In the first place it seems to us that the statutes require the same publicity to be given to the expenditures made by any person, firm or corporation interested in a referendum that is now required for campaign contributions. The evidence before us indicates that in all of the wards votes were counted by certain persons who had previously been employed and paid for their services by those interested in securing a certain result on one of the referendum questions submitted. In some of the wards particularly in Ward Five substantially all of the ballot counting was done by such persons. While we have no evidence to prove and therefore do not assert that the actual wrongdoing was done by these persons, nevertheless we feel strongly that it is an unfortunate situation that only through Grand Jury examination can the facts be learned as to these payments.

Secondly, we strongly feel that the statutes are defective in not providing definitely that ballots should be counted by duly constituted officials, sworn to their duty and definitely entrusted with the duty of correctly counting the ballots. Under the existing statutes as applied in the City of Lewiston, ballots are actually counted, to a large extent, by by-standers selected without system or responsibility and there are no statutory penalties for wrongdoing by these ballot counters, who are not regular officials.

Next, we feel that the statutes should forbid the counting of ballots in a referendum election by persons who have received pay from any person, firm or corporations who have been interested in securing a certain result from the referendum.

We also feel the statutes should definitely punish any persons counting ballots who purposely miscount and thus aid to defraud the voters at the election from obtaining the proper counting of the votes which they have cast.

We also believe that it would be wise for the statutes to provide that those who actually count the ballots at an election should be required to preserve the result of their count and forward it with the ballots and election returns, so that these figures would be preserved as a basis for checking on a recount the place where and the person or persons by whom errors or mistakes in the count have been made, thus definitely fixing the responsibility for such errors or mistakes as are made. Under the present system as we find it was in Lewiston at the time of the recent election, no evidence was preserved as to the particular ballots which were counted by each counter or the count

which that counter made. All that was preserved was the total vote of the ward as certified by the ward officers, which record combined figures and data from several counters without showing what figures each counter made or which ballots each counted.

We cannot express too strongly our condemnation of the very apparent frauds in the count of votes that was made in this election, but we are helpless under the law as it exists to bring in any indictment against any person of persons. We hope, however, that the eventual adoption of some at least of these suggestions may result in preventing the recurrence again of such a situation.

EARLE H. BICKLER, *Foreman*

FRED H. LANCASTER
Attorney for the State for said County

CLEMENT F. ROBINSON, *Attorney General*

Note: See P. L. 1931 c. 34, embodying many of the Grand Jury's suggestions.

ELECTIONS—BALLOT MARKING

July 16, 1930

To the Honorable The Governor and Council,
Augusta, Maine
Gentlemen:

In my opinion primary ballots marked with a cross after the name of a candidate, in the absence of any definite evidences of fraud, should be counted for that candidate even though the cross is not made within the square.

Section 14 of the Primary Election Law says that the voter should mark a cross "in the square to the right of" the printed name of a candidate; a cross "to the right of" a name written or pasted in. Section 8 of the same Act prescribes that the ballot shall be printed so as to give the voter an opportunity to vote by a cross "to the right of the name of each candidate." The same section requires the ballot to bear the words "make a cross in the square to the right . . . . add names . . . . and mark cross to right of such names."

If it were an open question the proper ruling might well be that the cross must be in the square in the case of the printed names. In other cases a cross anywhere to the right would be sufficient. The Law Court has, however, given a liberal interpretation and eliminated the requirement that the cross be within the square. See 124 Me. 488, 490-2.

The Court seems to have felt that the Legislature had clearly indicated a requirement that the voter must make a cross, but had not so clearly required the cross to be within a square. Where the cross is within the box, it is at least within a rectangle, but apparently the Court would hold the same of a cross even if it is wholly outside of the ruled spaces.

Very truly yours,
CLEMENT F. ROBINSON
Attorney General

"CREAMERY"

May 8, 1930

Hon. Frank P. Washburn,
Commissioner of Agriculture,
Augusta, Maine
Dear Sir:

Your further inquiry of May 3rd, with reference to the meaning of the word "creamery," under Revised Statutes, Chap. 37, Sec. 5, received.

I must adhere to the opinion of my predecessor of December 30, 1927. The word "creamery" is not defined in our statutes, but the very fact that the proviso in the Revised Statutes has through all subsequent amendments consistently referred to creameries, and also to butter factories and cheese factories, indicates that a creamery is something different from a butter factory or a cheese factory. My predecessor's opinion of December 30, 1927, was based upon the dictionary definition, defining a creamery to include an establishment "where milk and cream are prepared for market."

In Elgin Butter Co. v. Elgin Creamery Co. 155 Ill. 127, it was held that a creamery is sufficiently different from a butter factory so that a corporation might be organized under the name of Elgin Creamery Company, notwithstanding a previous corporation had been organized under the name, Elgin Butter Company. To be sure the court speaks of a creamery, "simply a place where butter is made," but in that allusion it is not referring to the possibility that a creamery might also carry on other manufacture.

In Newbeck v. Doscher, 199 N. Y. S. 203, the court said "operating a creamery and dealing in milk are entirely different operations," but the court was discussing the question whether an employee injured in delivering milk was a creamery employee.

These are the only two cases which discuss the meaning of the word, and neither of them are very close to our situation.

In Nebraska, the word "creamery" under the Pure Food Act has been defined, (Cobby's Statutes 1903, Section 9410) as a factory where cream from milk, with or without the addition of salt and coloring matters, is changed into butter.

Such a statutory definition would help in our state, but as it stands, an establishment where milk and cream are prepared for the market is a creamery, and because of this, those who furnish it milk are exempt from inspection, although it may also be a "depot or store" requiring registration.

Very truly yours,
CLEMENT F. ROBINSON
Attorney General

MILK BOTTLES

April 28, 1930

Hon. Frank P. Washburn,
Commissioner of Agriculture,
Augusta, Maine
Dear Sir:

Referring to your inquiry regarding the branding of milk bottles containing five-eighths of one pint, I am of the opinion that the only safe course is to brand these bottles with those words.

P. L. 1929, Chapter 192, amends P. L. 1927, Chapter 259, Section 1, so as to permit the use of bottles containing five-eighths of a pint and prohibits the use of any milk bottles except these and those containing one quart, one pint or one-half pint.

Section 2 of P. L. 1927, Chapter 259 penalizes the use of bottles which "do not comply as to size and markings" with the provision of section 1.

This Act of 1927 was passed for the purpose of overcoming the effect of Old Tavern Farm v. Fickett, 125 Me. 123, which interpreted the existing statutes so as to permit the use of all bottles other than quart, pint and one-half pint bottles provided they were branded with their exact capacity, not in fluid ounces but in liquid measure, viz: quarts, pints and gills.

Ten ounces may be the same in fact as five-eighths of one pint but the Legislature has, it seems to me, chosen to require that the bottles be branded with the category of quart and pint measurements.

Reference to the Legislative Record shows that these bottles were referred to in discussion as ten-ounce bottles but it is my recollection that in the hearing before the committee the suggestion was made by those who opposed the law that ten ounces meant nothing to the ordinary consumer; hence the words "five-eighths of a pint" were inserted in the belief that the consumer would know what a pint is even though he did not know what a liquid ounce is.

Discussion in committee or in Legislature has, however, little legal bearing on the question one way or the other where the wording of the statute taken in connection with the previous history of the legislation is so clear.

Very truly yours,
CLEMENT F. ROBINSON
Attorney General

STATE INSURANCE IN MUTUAL COMPANIES

May 1, 1929

Honorable Governor and Council,
State House,
Augusta, Maine
Gentlemen:

From such examination as I have been able to make since your inquiry of yesterday, I am of the opinion that the Governor and Council may take out casualty insurance in mutual companies. This is a proper exercise of a discretion not forbidden by law. The only restrictions are practical: the need for the insurance should be clear, the company should be authorized to do business in Maine, should be strong, and the policy should be so worded as to give the state and its employees actual protection.

The power of the State in such cases does not seem to have come up for adjudication, but I find that the analogous question of the power of a municipality has been ruled on favorably in several jurisdictions. The general principle seems to be this: unless a statute specifically prohibits mutual insurance, the express or implied power to insure may be exercised by securing mutual insurance.

In New Jersey this was decided by the Supreme Court in French v. City of Millville, 66 N. J. L. 382 (1901). There the constitution of New Jersey prohibited municipalities from loaning money or credit or becoming directly or indirectly the owner of corporation or association stock or bonds. The court said in part:

> "The scheme of mutual insurance in such associations does not vest upon the members any liability which municipal corporations may not, with reasonable safety, assume, for the limit of obligation is always fixed at the time the insurance is obtained, and is rarely enforced beyond what would be charged for insurance on the non-mutual plan.
>
> "By giving its premium notes the city did not loan its credit to the company. Its promises were made for a consideration of value beneficial to itself, and like other assets of the company, they were purchased not borrowed."

In Kentucky the same was decided in 1921 of a board of education. In this case, Dalzell v. Bourbon County Board, 193 Ky. 171, an injunction against mutual insurance was refused. The court held that: the fact that a person holding a policy is made a member of a mutual insurance company does not prevent a school district or other public corporation from becoming a policy holder in such mutual company; and the fact that a policy holder in a mutual insurance company becomes subject to an assessment liability does not prevent a school district or other public corporation from becoming a policy holder.

In Massachusetts the insurance commissioner in 1923 ruled that a municipality may take out mutual insurance, and that the selectmen can properly act as agents to effect the insurance and one of them may serve as the "member" of the mutual company under the mutual insurance company law which permits a corporation subscribing for mutual insurance to appoint a person to represent it as a member of the company. The commissioner said:

> "A contract of insurance with a mutual company differs from a contract with a stock company merely in that the policy holder is a member of the company, entitled to a vote in corporate meetings, having the right to participate in profits and contingent liability to assessment. These functions are not necessarily inconsistent with the nature of a municipal corporation."

The Attorney General of Massachusetts also ruled in 1917 that a municipality might become a member of a mutual liability insurance company. (Attorney General's Report, Mass. 1917, p. 68.)

At the present session of the Massachusetts Legislature, the express power to take out mutual insurance was conferred upon cities, towns and other political subdivisions. This statute was passed because a minor state official had ruled that the contingent liability under an assessment policy was contrary to a statute prohibiting the incurring of liability in excess of appropriations. (P. L. 1929, c. 156). This statute expressly says:

> "The contingent mutual liability of any city or town or other political subdivision of the Commonwealth becoming a member of such a company shall not be deemed a liability within the meaning of Section thirty-one of Chapter forty-four."

In Indiana a similar decision was made in Clark School Township v. Home Insurance Co., 20 Ind. App. 543 (1898).

The Attorney General of Ohio gave a similar opinion on October 16, 1928, also with reference to boards of education. A previous Attorney General of that state had ruled to the contrary in opinions on April 28, 1911, and December 20, 1911, and in 1912 (Atty. Gen. Rep. Ohio, 1911, pp. 246, 1690, 1912 p. 233). These rulings were reversed because of an amendment to the Ohio Constitution passed in 1912, which shows an intent to remove former prohibitions against such insurance. The Attorney General in the recent decision comments on the fact that since 1912 the Ohio laws regulating mutual companies have been stiffened. It seems fairly clear that he would have disagreed with his predecessor, even had the constitution not been amended. He says, on general principles:

> "Business men generally do not consider the carrying of insurance in these companies as being at variance with sound business principles. The control and management of school property is

the province of boards of education. In the absence of any specific directions as to the manner of performing these duties, such boards are vested with full discretion limited by law, and they cannot be said to have abused that discretion when they follow what is generally conceded to be sound business practice in the management of property similarly situated."

I am annexing the full text of the various decisions above referred to.

Very truly yours,
CLEMENT F. ROBINSON
Attorney General

CROSS-CONNECTIONS

August 11, 1930

Dr. Clarence F. Kendall,
Commissioner of Health,
Augusta, Maine
Dear Dr. Kendall:

You inquire regarding the power of the State Department of Health to promulgate the regulations which you enclose regarding cross-connections between public and industrial water systems.

In my opinion:

1. Your department has the power to make regulations on this subject applicable to private industries.
2. Proposed regulations should be recast in some respects.
3. Enforcement of the regulations may involve invoking the jurisdiction of the Public Utilities Commission.

1. *The power to make regulations*

On their face, these regulations being obviously for the protection of the public health, your department has the power to make and promulgate them under the general provisions of P. L. 1917, Chapter 197, Section 4, P. L. 1919, Chapter 172, as amended by P. L. 1923, Chapters 116, 221. The proposed regulations are not plumbing regulations under Section 112 of the Health Law interpreted in the recent decision of State v. Prescott.

Your power to make such regulations is, however, by the Court's decision in State v. Prescott limited by the principle that you cannot make regulations in cases where jurisdiction has been conferred elsewhere. I find no statute conferring jurisdiction to make such regulations on any other agency of the government. By P. L. 1917, Chapter 98, passed by the same Legislature which adopted the first of the legislation previously referred to:

"The Public Utilities Commission shall consult with and advise the authorities of cities and towns and persons and corporations

having, or about to have, systems of water supply, drainage or sewerage as to the most appropriate source of water supply and the best method of assuring its purity or as to the best method of disposing of their drainage or sewage with reference to the existing and future needs of other cities, towns or persons or corporations which may be affected thereby."

This section does not confer on the Public Utilities Commission any rule-making power, but contemplates the giving of attention by that Commission to individual cases. Section 7 does provide a penalty for the violation of rules, regulations or orders made under the Act, but this section evidently refers to the express power conveyed by Section 2 of the Act to make orders in certain cases where complaint has been made and to other similar orders under other sections of the Act.

The Public Utilities Commission, of course, has exclusive jurisdiction over public utilities including water companies. This probably cuts your department out from the power to make regulations directly governing the action of these utilities, but leaves unaffected your power to make rules and regulations not applying directly to the utilities.

2. *The form of the regulations*

It seems to me that the proposed regulations should be recast so as to make it plain that they govern customers and not utilties. For instance, the regulations might be put in the form of providing that no person, firm or corporation taking water from a water company whose supply is used for drinking purposes, shall maintain any cross-connection between the water system of the public utility and its own private water system unless the cross-connection is protected, etc., and shall not hereafter install any such cross-connection except under the approval and supervision of your department.

Of your proposed regulations I doubt the advisability of the ninth paragraph which assumes to give you as absolute veto power on the installation of such connections based on your finding as to the necessity of their installation. It seems to me that your function is comprised in safeguarding devices installed or to be installed, but does not extend to ruling whether it is necessary for two water systems to be connected.

I also doubt the advisability of the last clause in your eighth paragraph which sets forth what the department may do in certain cases. Any order made in such individual case would stand on its own legs and not take its force from the general regulations promulgated.

I query also the advisability of requiring that installations be under your *direction*. Supervision and approval or disapproval are one thing, but in assuming to direct the installation you might be going beyond your province.

I understand that the representatives of the water companies and of the industries have informally conceded that the regulations are mechanically proper and probably unobjectionable. My suggestions are confined to the form of the regulations.

3. *Enforcement*

Here we have to consider to some extent the possibility of an overlapping of jurisdiction between your department and the Public Utilities Commission. Your department has the power to enforce its regulations by criminal procedure against the individuals violating the regulations,—P. L. 1919, Chapter 172, Section 15, as amended by P. L. 1923, Chapter 116.

You also have the power under P. L. 1925, Chapter 138, Section 125, to examine drinking supplies and issue orders against further use of polluted supplies, these orders being enforceable by fine and imprisonment.

There is a heavy penalty for knowingly and wilfully corrupting water supplies,—P. L. 1917, Chapter 126.

None of these provisions expressly give the power to your department to enforce regulations which aim to prevent the contamination of water in a water system by the inlet of other water into the pipes.

On the other hand, the Public Utilities Commission has the power to consider petitions by town or city officers, managing boards or officers of public institutions, or officers of water or ice companies, to the effect that the source of a water supply is being contaminated. Orders passed by the Commission upon such petitions are appealable to court and enforceable by fine or imprisonment. This section does not provide for procedure initiated by your department or for jurisdiction over a case where the pollution is of the water in the pipes and not of the original source of supply, or for complaint by any person except those specified.

By the Public Utilities Commission Act, however, the Commission may entertain complaints and make orders where "any service is inadequate." R. S. Chapter 55, Sections 43, 48, 50.

It seems to me that enforcement of your proposed regulations against a recalcitrant customer of a public water company might therefore work out in one of these ways:

1. You might swear out a criminal complaint against him under Section 15 of your Act.

Secondly,—The water company having refused to furnish him water because of the existence of your recommendation and for fear that its water supply might be contaminated, the customer might himself bring a proceeding before the Public Utilities Commission, and it would then be for that Commission to determine whether the water company was justified in cutting him off from the system.

Thirdly,—You might bring the matter to the attention of the Public Utilities Commission in the expectation that the Commission would take jurisdiction under Section 48 of its Act.

Fourthly,—Your board could make an order under Section 125 if examination showed the water actually contaminated. This order would affect the public utility directly.

Fifthly,—Criminal proceedings could be brought under P. L. 1917, Chapter 126, if the circumstances justified.

These possibilities involve an overlapping of jurisdiction between your department and the Public Utilities Commission which is more apparent than real. The jurisdiction of the Public Utilities Commission is exclusive in giving orders to public utilities except where a supply is actually contaminated and your board has jurisdiction under Section 125. You have, however, the power to enforce health regulations affecting private consumers by bringing criminal proceedings against a delinquent person other than a public utility, and by bringing the situation to the attention of the Public Utilities Commission for action under Section 48 of the Act when the circumstances so justify.

Very truly yours,

CLEMENT F. ROBINSON
Attorney General

54-HOUR LAW

October 18, 1929

Hon. Charles O. Beals,
Commissioner of Labor,
Augusta, Maine
Dear Sir:

I have your inquiry regarding Section 1 of the Fifty-four Hour Law; your question is whether the word "apportionment" must be so interpreted as to prevent an employer from operating his plant a long enough period in the day to make up for a shortening of several hours on the sixth day, the result being that he operates the plant in the evening of one day entailing on that day a working day of twelve, thirteen or fourteen hours.

It is my opinion that such a procedure is certainly contrary to the spirit and intent of the Act, and almost as certainly contrary to its express wording.

I do not believe that it is "apportionment" to lump the extra hours into one day.

The courts have defined the word "apportionment" as meaning "assigning in just proportion." Hearst v. Callaghan, 257 Pac. 648, 649. Also as meaning division into just proportions. Robbins v. Smith, 72 Oke. 1—of a devise in a will. Also as meaning a division into parts. Swint v. McClintock, 184 Pa. 202. The word does not necessarily mean a division into *equal* parts. Jones v. Holzapel, 11 Oke. 405.

I conclude that in order to have the apportionment there must be some division of the extra time over several days, at least where the extra time to be divided is an appreciable amount.

Very truly yours,

CLEMENT F. ROBINSON
Attorney General

EMANCIPATION

December 9, 1930

Mr. Grube C. Cornish,
Augusta, Maine
Dear Mr. Cornish:

I am glad to confirm Judge Fisher's opinion of March 31, 1924, as follows:

> "Replying to your question as to emancipation of a child committed by a court to the State Board of Children's Guardians, you are advised that in our opinion such commitment operates as a legal emancipation of the child, and thereafter such child does not follow the settlement of its parents or grandparents."

Supplementing this opinion, which cites no references, I asked Mr. Folsom to collect the references and he has done so with the following result: the use of the word "emancipation" by our courts is not in strict accordance with the correct definition which is, "An Act by which a person who was once in the power or under the control of another is rendered free."

Under II, Section 1, Chapter 33, a number of cases are cited which refer to emancipation and various definitions of the word are given and are referred to in Thomaston vs. Greenbush, 106 Me. 242. The case of Green vs. Buckfield, 3 Me. 141 contains the following: "We are of opinion that supplies cannot be considered as furnished to a man as a pauper unless furnished to himself personally or to one of his family; and that those only can be considered his family who continue under his care and control."

In Sanford vs. Lebanon, 31 Me. 124, the Court defined emancipation as the "destruction of the parental and filial relations." This "destruction" would appear to be very effectually accomplished by our statutes.

Section 53 of Chapter 72 provides that orders and decree under Section 52 of the same Chapter shall have the same effect to divest the parent or parents of all legal rights in respect to said child as specified in Section 38 of Chapter 80.

The last clause of Section 54 of Chapter 72 would seem to take the word pauper out of the picture altogether. Once in your custody they cannot be paupers and pauper laws, as such have no application.

Very truly yours,
CLEMENT F. ROBINSON
Attorney General

WORLD WAR RELIEF

January 30, 1930

George W. Leadbetter, Secretary,
World War Relief Commission,
Augusta, Maine
Dear Mr. Leadbetter:

I have your two inquiries regarding Public Laws 1929, Chapter 295.

In my opinion, relief under this Act cannot be extended to step-children, step-parents or foster-parents. Section 2 of the Act refers to "children" and "father or mother." One does not become legally the child of a person merely by that person's marriage to one of the natural parents of the child. One does not legally become the parent of a child merely by taking the child in and fostering him.

It is, however, my opinion that actual dependency of the parent of a dead or disabled veteran, in the sense of necessitous curcumstances such that the person is dependent for support on some person or agency outside himself, is sufficient to entitle him to relief; not merely the dependency of such parent upon the veteran. Dependency of a father or mother upon an employee is necessary for compensation under the Workmen's Compensation Act, but the object of that Act is more limited than the object of the present Act and that Act expressly defines dependency as of the date of the death of the decedent. There is no such limitation in Public Laws 1929, Chapter 295.

Section 2 of the Act of 1929 strictly resembles Section 2 of the State Pension Law, Revised Statutes, Chapter 148. In its original form this provided benefits for

> "The dependent child, parent or sister of any soldier or seaman deceased."

This wording as interpreted in practice gave relief to beneficiaries on the basis of their actual dependency viz.: necessitous circumstances regardless of their dependent condition at the time of the death of the soldier. This section was subsequently amended by Public Laws 1919, Chapter 110, Section 2, and Public Laws 1925, Chapter 119, Section 2, so that, among other things, it now provides that the claimant must have been "dependent upon him at the time of his decease."

In accordance with usual principles of statutory construction, therefore, we must deduce that the Legislature in following the original wording of Chapter 148 had in mind the interpretation given to that section. If they had meant to limit the dependency to actual dependency upon the veteran at the time of his death or disability, the Legislature would have used the wording in the amendment to Section 2, of the Revised Statutes.

This impression of the meaning of the section is confirmed by reference to the Legislative Record for 1929. Speeches on Page 1272, and following, show that the actual understanding on the part of the

Legislature was that relatives in necessitous circumstances would be protected under the law not merely relatives who were dependent on the veteran at any one particular date.

Very truly yours,
CLEMENT F. ROBINSON
Attorney General

HOSPITALS

December 6, 1929

Honorable William Tudor Gardiner,
Governor of Maine,
Augusta, Maine
My Dear Governor:

In answer to your recent oral inquiry in regard to the reception and treatment free of charge by hospitals and institutions, which shall receive an appropriation from the State, of patients under the control of the State School for Boys and those under the control of the State School for Girls, as provided in Section 32 of Chapter 144 of the Revised Statutes; and as to the effect of the enactment of Chapter 35 of the Private and Special Laws of 1929 concerning the free treatment of the aforesaid patients in such institutions, I beg to advise you that it is provided by said Section 32 that in consideration of receiving an appropriation the hospital or institution is obligated to receive patients from the aforesaid schools and furnish free of charge proper food, lodging, medicine, surgery, medical attendance and nursing as long as necessary.

Chapter 35, Private and Special Laws of 1929 entitled, "An Act Relating to Appropriations for Public and Private Hospitals," appropriated the sum of one hundred and sixty thousand dollars for each of the fiscal years ending June 30, 1930 and 1931 respectively, for the "necessary care and medical and surgical treatment * * * in or by public or private hospitals, of *certain classes* of persons whose resources, or the resources of whose responsible relatives, are insufficient to pay for the same. All said moneys shall be expended under the direction of the State Department of Public Welfare."

Neither this Act nor any other Act passed by the Eighty-fourth Legislature, as far as I can ascertain, made any state appropriation for the institutions mentioned in Section 32, consequently the consideration therein mentioned no longer exists; and Chapter 35 appears to limit the expenditure of the appropriation to destitute persons who are without resources sufficient to provide for hospital treatment, and does not seem to include the patients provided for in Section 32.

It is, therefore, my opinion that the trustees of the aforesaid schools will have to pay necessary hospital charges for their inmates.

Respectfully yours,
SANFORD L. FOGG
Deputy Attorney General

POST-MORTEMS

July 9, 1930

T. A. Devan, M. D.,
Eastern Maine General Hospital,
Bangor, Maine
Dear Dr. Devan:

I have your inquiry regarding post-mortem examinations.

We have a statute which was passed at the instance of the Maine Medical School for the disposal of unclaimed bodies. This statute is probably familiar to you. It is comprised in the first eight sections of Chapter 18 of the Revised Statutes of 1916. You will notice that Section 3 of this act permits the superintendent and medical staff of the Bangor State Hospital to hold an autopsy "for the advancement of science" when no person satisfies the superintendent and trustees that he or she is a member of the family, family connection or next of kin of the deceased and wishes to claim the body for burial.

We also have statutory provisions against interment or disinterment without permit (R. S. Chapter 64, Section 29), and against the abandonment of human bodies (Chapter 126, Section 42). Our Law Court held in Bath v. Harpswell, 110 Me. 391 that the overseers of the poor might give a body a Christian burial at the expense of the city notwithstanding the medical school act first above referred to.

A medical examiner or prosecuting officer can, of course, order an autopsy in connection with the investigation of suspected crime. See the medical examiner statute, R. S. Chapter 141, as amended by P. L. 1917, Chapter 252, and particularly sections 5, 6 and 7. Section 8 of this act names expressly the persons entitled to possession of the dead body after an autopsy, in the following order:

1st—Husband or wife
2d—Next of kin
3d—Friends

General principles of law regarding autopsies are discussed in a note in L. R. A. 1918 D, p. 404. Aside from statute it is clear that an autopsy cannot be made without the consent of those entitled to the custody of the corpse. Without such consent or statutory authority any person performing an autopsy is liable in damages, and a claim that the performance of the autopsy was necessary in order to determine the causes of death is no answer to such a suit.

Reference to the statutes above cited will answer most of the questions which you put. The statute does not define the order of choice as among relatives other than surviving spouse. Presumably, the next in order of relationship would be the ones to give or withhold permission for an autopsy. Of a minor I should say that parents would come first. Children would naturally come ahead of brothers and collateral relatives. There is no classification as among other persons.

There is no requirement that authority to perform an autopsy must be in writing. Under R. S. Chapter 18, Section 3, you need merely to be satisfied that no person who is a member of the family or family connection or next of kin of the deceased wishes to claim the body for burial. In the case of patients who are not public charges an express authorization given by any one person entitled to the body would seem to be sufficient. This is plain in the case of a widow or widower. Such widow or widower has a right to the body, and therefore a right to give the consent for an autopsy. Where several persons seem to have an equal claim to the body it would be my view that the express consent of any one of those persons would be sufficient to authorize the autopsy, but in the absence of an express consent from one of those persons there would be a risk involved in performing the autopsy on a person not a public charge or a stranger within the provisions of Chapter 18, Section 3.

I trust this answers your inquiry and should be glad to be of any further assistance that I can.

Very truly yours,
CLEMENT F. ROBINSON
Attorney General

COMMITMENT OF CHILDREN

February 27, 1930

Dr. Stephen E. Vosburgh,
Superintendent, Pownal State School,
Pownal, Maine
Dear Dr. Vosburgh:

I have your inquiry regarding the legality of the commitment from a probate court to the State School of a child of eight years, at the request of the State Board of Children's Guardians without notice by publication or to any person.

It seems to me that this commitment was legal.

By Revised Statutes, Chapter 146, Section 49, a judge of probate may commit to the Pownal State School "after due notice and hearing."

By Revised Statutes, Chapter 67, Section 50, "due notice" denotes public or personal notice at the discretion of the judge.

By Revised Statutes, Chapter 64, Section 54, as amended by P. L. 1917, Chapter 297; P. L. 1919, Chapter 171, the State Board of Children's Guardians to whom a child is committed has "full custody and control over said child;" and the order and decree divests the "parents of all legal rights," "as if the child were adopted."

Putting these statutes together I should say that it is not necessary to give notice by publication or to any individual. The child himself is too young to be entitled to notice; his parents have no legal right to it; the State Board having brought the proceeding obviously has notice.

I should say that it is only in the case of a minor who has no parents, guardian or public board like the Board of Children's Guardians that it is necessary to appoint a guardian ad litem.

Very truly yours,
CLEMENT F. ROBINSON
Attorney General

SUNDAY LAW

February 20, 1930

Frederick W. Smith, Esq.,
Waterville, Maine
Dear Sir:

I have your inquiry of February 15 as to the effect of eliminating the words, "Uses any sport, game or recreation" from our Sunday Law.

My immediate predecessor gave you a very careful opinion interpreting the existing Sunday Law under date of April 9, 1928. This is printed in his report for the year on Page 278 and doubtless you have a copy.

In the last part of this opinion he comments on the fact that irrespective of statutory provisions, unnecessary acts of individuals which disturb or interfere with the proper enjoyment of Sunday by the general public who stay at home, might be illegal. Each case must stand on its own merits.

Applying this opinion to your question it seems to me that the effect which a court might give to the omission of the words which you suggest might be this: sports which did not disturb or interfere with the rights of that part of the general public who stay at home on Sunday and observe it as a day of rest, would be held legal; and sports coming within this general objection would still be illegal and so, of course, would sports coming within the express prohibition of the rest of the section, viz.: unnecessary or uncharitable "work, labor and business." Those "present at" the diversions mentioned in the last sentence would still be within the prohibition of the statute.

Coming down to some practical cases I should suppose the eliminating of this phrase would legalize a quiet game of golf on the grounds of a club not contiguous to the residence of those who might be disturbed by the game, and would legalize recreation and games within the family. Some of these diversions may be legal even now with the statute as it is worded, but the amendment would at least appear to clarify the situation to that extent.

It is always difficult to pass beforehand on what application courts would make to a statute or rule of law to a certain set of facts, although in practice that is just what the inquirer would like to know. About as far as any legal adviser can go is to outline the rules of law and forecast his opinion as to the probability of the application which a court would make of those rules of law to suggested facts. But every

legal adviser has to accompany such an opinion with the cautionary statement that very slight facts make a difference as to the application of one rule of law or another. The rules of law we can be fairly sure of, only a court decision will show the particular application.

Very truly yours,
CLEMENT F. ROBINSON
Attorney General

SUNDAY LAW

November 26, 1930

Reverend F. L. Littlefield,
Bath, Maine
Dear Mr. Littlefield:

I have yours of November 17 with reference to the operation of miniature golf courses on Sunday. I appreciate very much the very temperate tone of your letter. I can see that you appreciate that it is not merely a question of law, but also of public policy.

You suggest that the State might properly take a hand in the matter. This raises another question of policy which is more obvious to one acquainted with our governmental traditions than to the private citizen. Under our system of government local authorities are elected and vested with the duty of administering the criminal laws of the State. There is a natural feeling on the part of local officials that they should ordinarily be free from state interference. This feeling has a very real historical and constitutional basis.

There is no dobt of the constitutional power and duty of officials at the State House with respect to the local administration of these laws, but this is not called into play locally except on the request of local officials, or where there has been substantially a breakdown or where crimes of unusual gravity are concerned, typically, capital crimes or crimes involving the fundamental organization and efficiency of the government.

Applying these general principles to the situation which you outlined, it seems to me clear that the working out of the Sunday Law in your community is for the local officials who would have reasonable ground to take it amiss if authorities from Augusta should interfere without their request.

Two practical considerations may have some weight. First, that the incoming legislature will probably consider further the whole question of Sunday observance and may by legislation indicate a public policy one way or the other which is now somewhat uncertain. Second, it is not unlikely miniature golf courses will go as quick as they have come.

Your letter raises fundamental questions of governmental policy which are difficult to work out satisfactorily in specific instances but which are fairly clear of definition in theory and principle.

Very truly yours,
CLEMENT F. ROBINSON
Attorney General

November 20, 1929

TO THE MEDICAL EXAMINERS:

In going over the reports from Medical Examiners received in this department since I have come into office I have been impressed with the efficiency of the Medical Examiners and their careful attention to their primary duty of reporting promptly on the cause of death when dead bodies have been brought to their attention.

Prosecutors, however, need something further. They need to know of suspicious circumstances pointing to a criminal cause of death, calling for investigation and perhaps for prosecution.

It is not, of course, the duty of the Medical Examiner to hold an inquest except under the circumstances specified in the statute but it is apparently contemplated that he should make some inquiry and report the results. The statute requires him to determine:

> "Any and all facts that may be deemed important in determining the cause of death,"

and to report his

> "Opinion that the death of the person was caused by violence criminal or otherwise,"

formed

> "Upon such view with personal inquiry or autopsy."

The late Dr. Whittier of Bowdoin College interpreted this very broadly. In his reports as Medical Examiner he set forth the names of witnesses with whom he talked and his conclusion as to criminality. This was of great assistance to the prosecutors.

I should appreciate it, and I know the local prosecutors would, if the Medical Examiners, in making their reports, will have it in mind to give some such indication, if they readily can, of the criminal possibilities presented. In most cases this can be done with the expenditure of little, if any, extra time.

The mere statement of the Medical Examiner negativing criminality, as far as his inquiry shows, will be of help; and even more a list of the witnesses with whom he has talked, and a memorandum of the facts elicited.

I hope you will find it practicable to help us out in this way.

Very truly yours,

CLEMENT F. ROBINSON
Attorney General

FRAUD—CHECKS

April 26, 1930

Ralph W. Hawkes, Esq.,
County Attorney,
York Village, Maine

Dear Brother Hawkes: *In Re*: *P. L.* 1923, *Chap.* 7.

In answer to your letter of April 18, I am pleased to inform you that according to the decision of State vs. Vashon, 123 Me. 412, it is my opinion that the Legislature in providing that a person issuing a fraudulent check where the penalty is by imprisonment for not more than a year, shall be guilty of a misdemeanor, exceeded its Constitutional limitations.

Chapter 137, Section 3, provides that:

> "Imprisonment for one year must be inflicted in the State Prison, unless otherwise specially provided."

The Court says, in the aforesaid case, that:

> "Such a punishment makes the crime a felony."

The fact that the Legislature says that the crime shall be a misdemeanor would not have any controlling effect over the section which makes it possible to impose a sentence of one year.

Trusting that the foregoing will answer your inquiry, I am

Sincerely yours,

CLEMENT F. ROBINSON
Attorney General