PUBLIC DOCUMENTS

OF THE

STATE OF MAINE

BEING THE

REPORTS

OF THE VARIOUS

PUBLIC OFFICERS
DEPARTMENTS AND
INSTITUTIONS

FOR THE TWO YEARS

JULY 1, 1930 - JUNE 30, 1932

STATE OF MAINE

REPORT

OF THE

Attorney General

---

for the calendar years

1931-1932

ATTORNEYS GENERAL OF MAINE, 1820-1932

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
Geo. W. Ingersoll, Bangor (died)	1860
Josiah 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
Cyrus R. Tupper, Boothbay Harbor (resigned)	1911
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
Ralph M. Ingalls, Portland (temporary appointment)	1931
Richard Small, Portland	1932

LIST OF COUNTY ATTORNEYS BY COUNTIES AND ADDRESS

Terms Expire December 31, 1932

Androscoggin		Harold L. Redding	Auburn
"	Asst.	Harris M. Isaacson	Auburn
Aroostook		J. Frederick Burns	Houlton
Cumberland		Walter M. Tapley, Jr.	Portland
"	Asst.	Albert Knudsen	Portland
Franklin		Carll N. Fenderson*	Farmington
Hancock		Percy T. Clarke	Stonington
Kennebec		H. Chesterfield Marden	Waterville
Knox		Ensign Otis	Rockland
Lincoln		Weston M. Hilton	Damariscotta
Oxford		E. Walker Abbott	South Paris
Penobscot		James D. Maxwell	Bangor
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

*Appointed Judge Municipal Court July 20, 1932. Term finished by Earl L. Wing, Kingfield.

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STATE OF MAINE

Department of the Attorney General.

Augusta, January 1, 1933.

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 1931 and 1932.

CLEMENT F. ROBINSON,
Attorney General.

REPORT

THE OFFICE OF THE ATTORNEY GENERAL

In filing this report covering my second term of office I do not need again to outline the routine activities of the department, and the nature of the office. These were summarized in the report for the years 1929-1930. At that time some changes in the duties of the office had been suggested in the state survey, but these were not adopted by the legislature.

The personnel of the department has remained unchanged, and I am glad to renew the expression in that report of my appreciation of their loyalty and efficiency.

The Attorney General attended the annual conferences of the Association of Attorneys General at Atlantic City in 1931, and at Washington in 1932, and served as president of the association during the year 1932. As such he attended the international conference of lawyers held in Holland in the summer of 1932, the first such conference since 1904.

Extradition was the principal subject of discussion at the Atlantic City conference. Amendments to the uniform extradition law there discussed were adopted by the Commissioners on Uniform Legislation in 1932. The chief topic for discussion at the Washington meeting was the encroachment of federal on state juridiction in tax matters.

In addition to the routine duties of the department and certain special activities which will be mentioned under subheadings, many questions were brought to the attention of the Attorney General and his deputy in connection with the Administrative Code, (P. L. 1931, ch. 216), which took effect in 1932 as the result of the referendum in September, 1931. The code wisely leaves many details to be worked out in practice. The spirit of cooperation between the efficient officials who have administered it has kept the machinery free from friction, but many legal questions have arisen in connection with the transfer of functions under the code, which have required assistance of this department. Scarcely any written opinions were however required.

AGRICULTURE DEPARTMENT

The principal problem brought to the attention of the Attorney General from the department of agriculture was the insecticide case, so-called. For the purpose of testing the validity of state insecticide and germicide statutes the United Drug Company in May, 1931, brought a bill in equity against the Commissioner of Agriculture of the State of Maine, seeking an injunction against the enforcement of certain sections of the insecticide statute of Maine by the commissioner against retail druggists purchasing insecticides from the United Drug Company.

After a hearing in Portland before the federal Circuit Judge and two federal District Judges, the injunction was denied. From this order an appeal was taken by the United Drug Company to the United States Supreme Court at Washington, the Attorney General of Maine appearing for the state.

After argument the Supreme Court dismissed the appeal and no further action has been taken by the United Drug Company.

The only other litigation for this department was a bill in equity brought for the commissioner against a blueberry packer to enjoin him from interfering with an inspector of the department. On apologies and satisfactory future undertakings made by the packer, the proceeding was dismissed by consent.

Opinions filed with the department are these:

Premiums cannot be paid for exhibits of rabbits at fairs. (Comm'r Agr., Jan. 12, 1932).

The state does not pay town expense of investigating sheep claims. (Comm'r, Mar. 2, 1932).

BANKING DEPARTMENT

Two special problems in the banking department have come to the attention of this department: the powers respectively of trust companies and loan and building associations to borrow from federal and other sources during the current depression. The opinions of this department on

these important points under date of May 25, 1932, June 17, 1932, and October 18, 1932, are annexed to this report.

Other opinions are these:

Security dealers already registered need not file the bond required by P. L. 1931, ch. 248, until they reapply for registration. (Bank Comm'r, May 21, 1931).

The practice of appointing foreign bank and trust companies as administrators on Maine estates is now established. (Commerce Clearing House, Chicago, Sept. 5, 1931).

Ogunquit Village Corporation bonds are legal for Maine savings banks. (Comm'r, Sept. 25, 1931).

Public officers are not liable on their bonds for the failure of depositaries. (Boothby & Bartlett, Waterville, Feb. 9, 1932).

CORPORATIONS

During the year 1931, 323 certificates of incorporation of business corporations were approved; during 1932, 300; during 1931, 15 corporations were excused from filing returns; during 1932, 142. The total receipts of the department from corporation fees were as follows:

1931	New corporations	$1615.00	Excuses	$770.00
1932	" "	1500.00	"	710.00

It is plain to see how the state's revenue from this important source is diminishing, notwithstanding the reduction in franchise and organization fees made by the legislature of 1931. (P. L. ch. 240, 242).

The department ruled that it could not approve as one of the purposes of a corporation a clause permitting contracts between the corporation and its directors, officers and corporations in which they are interested, even when the interest is shown and there is no actual fraud, if the interested person is to count toward the quorum and to have a vote. Court proceedings were threatened to test the validity of this ruling, but were not brought.

EDUCATION

For the department of education the Attorney General put through the condemnation proceedings for land acquired for the Gorham Normal School by virtue of P. & S. L. 1913, ch.

47. Hearing in damages was held by the county commissioners, and an award of $3,000.00 made.

The Attorney General participated in the organization of the teachers' retirement board, constituted by R. S. ch. 19, sec. 230.

Opinions in educational matters are these:

Pensions,—the time of employes while paid by the Rockefeller Foundation, or while teaching in a private Maine academy, may be counted. (Comm'r Ed., Jan. 18, 1931).

Schooling of children who are away from their legal homes. (Comm'r, Jan. 24, 1931).

Public funds cannot pay for carrying pupils to a private primary school. (Comm'r, Jan. 24, 1931).

School committees may close a school for a year. (Comm'r, June 18, 1931; Mrs. P. J. Smith, Winterport, Sept. 8, 1931).

An institution giving a four-year collegiate course is not an academy entitled to state aid under R. S. 1930, ch. 19, sec. 105. (H. Allen, Springvale, Jan. 6, 1932).

The vivisection statute (R. S. ch. 135, sec. 73-4) does not apply to the University of Maine. (President, U. of M., Jan. 22, 1932).

The expense of obtaining a readmission certificate from a health officer for a quarantined pupil rests on the town; if obtained from the family physician it rests on the parents. (Comm'r, May 20, 1932).

ELECTIONS

By P. L. 1931, ch. 181, the Attorney General was directed to prepare instructions to be placed on initiative and referendum petitions. The department ruled that this act did not apply to referendum petitions on acts passed at the regular session of the 1931 legislature. (Secretary of State, April 13, 1931). For initiative petitions subsequently put in circulation the Attorney General drew up instructions as follows:

A. PETITIONERS

Each petitioner

(a) Must be a registered voter
(b) Must sign his or her own name
(c) Must not write another person's name
(d) Must sign but once
(e) Should spell out first name in full
(f) Should if a married woman spell out her own first name and surname instead of using husband's name preceded by "Mrs."
(g) Should use ink; may use pencil; must not use typewriter

(h) May if unable to write sign by duly witnessed mark
(i) Should follow the name with the correct name of the town or city of residence,—for example, Sanford if the petitioner lives in Springvale; and in cities with the residential street address

B. VERIFYING PETITIONERS

Each verifying petitioner
(a) Must be a petitioner who has duly signed the petition
(b) Must sign and verify but one petition
(c) Must know that the signature of all petitioners are original and authentic, and make oath accordingly
(d) Should personally see each petitioner sign
(e) Should make his oath after the town clerk has completed his certificate

C. CLERKS

Each town or city clerk must personally sign a certificate appended to the petition specifying that each name on the petition appeared on the voting list of his town or city as qualified to vote for governor

D. COMPLETING AND FILING THE PETITION

(a) If more than one sheet makes up the same petition these must be permanently fastened together by paste, eyelets or otherwise; the attestations of the verifying petitioner and the town clerk to be appended last and to refer to the whole document
(b) Referendum petitions must be filed in the office of the Secretary of State within ninety days after the recess of the legislature; initiative petitions must be filed either in the office of the Secretary of State or presented to either branch of the legislature at least thirty days before the close of its session
(c) Petitions cannot be amended after filing

Subsequent to the state election in September, 1932, many petitions for the correction of returns and the recount of ballots were filed with the Governor and Council. They remained in session from day to day for many weeks. In connection with the recount of the votes for member of Congress in the third district important legal questions came up for the consideration of this department at the Governor's request.

Annexed to this report is the Attorney General's statement of September 28, 1932, to the Governor and Council regarding an investigation which the Attorney General carried out for

the purpose of ascertaining whether there was evidence of criminal fraud in certain communities in Aroostook county. No such fraud was found.

Annexed also are the opinions filed October 18th, November 8th and 28th, 1932, with reference to the procedure in recounts, and ruling against the power of the Governor and Council to inquire into the eligibility of a person for membership in the legislature, or into fraud in the election of a member of Congress.

At the request of the Council the Attorney General drew up certain questions to be submitted to the Law Court regarding returns from plantations, which, with the answers, will appear in the appendix to volume 131 of Maine Reports.

After the recount was completed no joint action was taken by the Governor and Council. The majority of the Council voted to correct the original tabulation by omitting the votes of two plantations because of incomplete returns and by excluding certain ballots on the ground that they bore distinguishing marks. This would have substituted another candidate for the candidate apparently elected by the original tabulation of the returns. This action the Governor disapproved. A vote to correct the original tabulation by omitting merely the two plantations, thus determining to be elected the candidate so shown by the original tabulation, failed of passage in the Council. The Governor summarized these facts in a statement sent to the Clerk of the House of Representatives in place of the usual certificate.

Other opinions on election matters are these:

Date for election on referendum petitions. (Governor, June 1, 1931; opinion annexed).

Endorsing a package of ballots by the counter is sufficient under P. L. 1931, ch. 34. (Town clerk, Whitefield, Oct. 23, 1931).

Students' right to vote. (Editor, Bates "Student," Lewiston, Nov. 6, 1931).

Residence for the purpose of voting in state or national elections is retained for three months after removal to another place in the state. (Mayor, Waterville, Jan. 18, 1932).

A child born in Canada of American parents is a natural born American citizen. (Dr. W. N. Miner, Calais, Mar. 14, 1932).

Form of ballot for county commissioners. (Sec. of St., Apr. 16, 1932; opinion annexed).

Enrollment of voters in parties for general primaries should be by enrollment blank; correcting errors is for the registration board at the instance of the voter, and can be compelled by the court. (P. C. Thurston, Bethel, May 5, 1932).

Persons receiving pauper supplies within three months prior to an election are ineligible to vote under Op. Just. 7 Me. 499. (D. M. Smith, Lewiston, May 28, 1932).

A vote on a party's primary ballot counts only for the nomination in that party. (F. S. Dow, Livermore Falls, June 15, 1932).

EXECUTIVE DEPARTMENT

The only written opinions requiring mention here are these:

The survey report recommendation that certain offenders be committed directly to the department of health and welfare is of doubtful legality. (Governor, Dec. 12, 1930).

Whether the state should defend a state officer or employe who is sued personally for damages for slander is doubtful; such a defense if furnished is more a matter of courtesy than of right. (Governor, Aug. 14, 1931; opinion annexed).

FEES, FINES AND FORFEITURES

The question has arisen in several counties regarding the disposal of fines, forfeitures and costs in cases in which the state highway police are concerned, under P. L. 1931, ch. 189 and 252. Legislation should clarify this difficulty. The rulings of this department to the judge of the municipal court, Farmington, under date of December 4, 1931, and to the state auditor, September 5, 1932 are annexed to this report.

Other opinions are these:

Fines for larceny go to the county, even in cases prosecuted by the highway police, or by game wardens; unless special arrangement is made, the county treasurer pays game wardens' fees to them to be by them accounted for to the department; fees taxed for game wardens, but not collected, need not be paid. (Municipal judge, Calais, Apr. 30, 1931; Oct. 10, 1932; Dec. 15, 1932; Comm'r Inl. Fish & Game, Sept. 7, 1932).

Deputy sheriffs paid per diem are entitled to $5.00 when doing work which only a deputy can do. (Sheriff and county commissioners, Cumberland County, Portland, June 25, 1931).

On committals to the women's reformatory the attendant receives expenses; on committals to the state school, officers' fees. (R. S. ch. 152, sec. 61; ch. 154, sec. 21). (T. D. Pelletier, St. Francis, Jan. 28, 1932).

FINANCE DEPARTMENT AND STATE AUDITOR

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

State Highway and Bridge Bonds:	
June 29, 1931	$2,000,000.00
Aug. 31, 1931	2,000,000.00
Dec. 12, 1931	500,000.00
June 30, 1932	2,000,000.00
Aug. 11, 1932	1,000,000.00
Sept. 2, 1932	1,500,000.00
Waldo-Hancock Bridge Bonds:	
Dec. 12, 1931	$200,000.00
Temporary Loans:	
Nov. 27, 1931	$800,000.00
Aug. 11, 1932	800,000.00
Nov. 3, 1932	800,000.00

Other opinions in regard to financial matters are these:

Legislative orders increasing the stated stipend of legislative employes may be disregarded when passed by but one house; but extra services rendered outside of regular hours and duties may be paid on the auditor's certificate. (State Auditor, June 29, 1931).

Porcupine bounties cannot be paid by the state in excess of $5000.00 per fiscal year; the Governor and Council distribute this fund. (State Auditor, June 29, 1931).

The University of Maine is entitled only to the amount appropriated by the legislature, notwithstanding the provisions in the Revised Statutes for a one mill tax on state valuation. (State Auditor, June 30, 1931).

The contingent fund can pay for the Brooks history. (State Librarian, Sept. 3, 1931).

HEALTH AND WELFARE; INSTITUTIONS; BOARDS; PENSIONS AND STATE PAUPERS

Legal assistance to the public welfare department has been effectively rendered by assistant Attorney General Folsom, assigned as counsel to that department. He files the following statement:

Year ending July 1, 1931

Number of courts	43
appearances	120
Cases dismissed	18
pending—may be dismissed	3

Number children involved in the 18 cases	37
Committed and afterwards dismissed	5
Part of family not committed	7
Adjusted without court action	39
Total	88
Of the 88 one family of seven children will probably be committed	7
Kept in custody	81
Dismissed from custody by special effort of counsel	8

(The foregoing includes only those cases in which counsel was personally active, and does not include many cases in which children were dismissed from custody or arranged for without court action by the staff).

Institutional services since July 1, 1930

Collected for Bangor state hospital	$2,319.32
Augusta state hospital	1,206.85
Pownal state school	382.83
	$3,909.00
Collected or arranged for the department	1,710.71
Total	$5,619.71

Year ending June 30, 1932

Number of courts	38
appearances	134
Cases dismissed	37
Children involved	282
Children committed	156
Children dismissed	126
Collected for board and care, reimbursements	$1,036.17
Collected for Bangor state hospital	2,473.51
Augusta state hospital	2,507.09
Pownal state school	142.71
Sanatoriums	125.58
Total	$6,285.06

From June to December, 1932, he has handled 58 cases involving 73 appearances in court. Eighty children have been committed; 48 not committed. He has collected for board and care, $460.92; for Bangor state hospital, $953.96; for Augusta state hospital, $749.90; in all, $2,164.78; and has pending a case in which at least $1350.00 more will be collected.

Opinions are these:

A cash good conduct allowance to state prison employes is not justified by law. (Clerk, state prison, Jan. 8, 1931).

Feeble-minded children in the custody of the department should be given preference in admission to the Pownal state school. (Superintendent, Pownal state school, Mar. 6, 1931).

Embalmers must renew registration in order to do business. (Health department, Mar. 13, 1931).

Settlement under the new state pauper law. (G. B. Cornish, Augusta, Apr. 1, 1931; opinion annexed).

One who solicits appointments for an optometrist is not a peddler. (Optometry board, May 28, 1931).

Fees under the practice of healing act (P. L. 1931, ch. 244) belong to the towns. (Town clerk, Norway, June 27, 1931).

A camp without public or commercial features, or a private residence within a village need not be licensed under P. L. 1931, ch. 167. (Health department, July 31, 1931; Sept. 9, 1931).

Fixtures in the plumbing law include sinks draining into sewers. (Health department, Dec. 2, 1931).

Whether non-druggists can advertise "Druggists' Sundries" or "Rexall" goods, is a question of fact; our law prohibits non-druggists from giving to a store the "appearance of an apothecary store." (Pharmacy comm'n, Jan. 5, 1932).

Osteopaths may sign certificates and committal papers. (Dr. G. C. Shibles, Westbrook, Jan. 20, 1932). Chiropractors cannot. (E. C. Small, York, Feb. 9, 1932; health department, June 8, 1932).

Requirements for registration as osteopaths fixed by R. S. ch. 21, sec. 62, cannot be waived. (Dr. V. G. King, Augusta, June 10, 1932).

The state is the custodian of the property of its wards in state institutions. (Director, bureau social welfare, Sept. 21, 1932).

The commissioner may remove the chaplain of the state's prison without a hearing. (Comm'r of Health, Sept. 21, 1932).

HIGHWAYS AND AUTOMOBILES

A large proportion of the work of this department is in connection with the statutory duty of the Attorney General to act as attorney for the state highway department. The legality of bonds and contracts must be approved; advice given from day to day; deeds drawn for land purchased by the commission in the laying out or realigning of state and state aid highways; court proceedings perfected on appeals in land damage cases, and grade crossing and bridge hearings carried on. Most of the time of the assistant Attorney General in charge of workmen's compensation cases is devoted to investigating and settling claims of highway department employes.

After four years' experience in this office, added to a brief experience in the department some years previously, I am

impressed with the increase of legal problems in the work of the state highway department. This is naturally to be expected because of the growth of state expenditures for highway purposes. The highway department now has a payroll of $4,000,000 a year. It seems to me that the time is coming soon, if it is not already here, when it would be of real advantage to have an assistant Attorney General assigned to the highway department to coordinate its legal work. That department is like a business which has grown fast from a small beginning, and has carried along with it some of the procedure of its early days. The manager of a small business does not require a legal advisor at his elbow. A larger business does. The highway department has carried on with remarkable efficiency many operations involving legal problems, without consulting the legal department except in peculiar situations, and in this way results have sometimes been secured more efficiently perhaps than by delaying for legal advice. A business man is often impatient of legal refinements, and in preferring to reckon that a certain result will follow he often achieves it more directly than if he followed the more roundabout course which his legal advisor might suggest. Nevertheless, in such cases the business man is after all "taking a chance." I have no criticism for the way in which the representatives of the highway department have worked out their problems, and I am appreciative that they have in many instances saved the time of this department by going ahead without calling for assistance. Nevertheless, in the long run that is what a legal department is for, and I am sure that if a representative of this department were assigned exclusively to the highway department some snags would be avoided which are apt to prove troublesome.

It is, of course, because of the willingness of the highway department to carry on its work without calling for all the help to which it is entitled, that this department has the time available for performing its other duties. If the highway department should avail itself as fully of the services of this department as the law permits, the deputy at least might have little time for anything else.

In the hundreds of cases throughout the state where land must be acquired for state highway and state aid highway

purposes, or where grades are to be changed to the possible damage of adjacent property, the highway department rarely calls on this department except to make the deed where there has been a voluntary sale, or to carry through the appeals to court from condemnation awards. During the last two years there have been sixteen of these appeals, all of which have been referred to referees, and all but three have been settled. In addition one suit in trespass against an employe of the commission was successfully defended by this department.

The statute defining the procedure in land damage cases is unsatisfactory. (R. S. ch. 28, sec. 12 and 14).

Sec. 12 provides for setting up a valuation board in condemnation proceedings, from which an appeal may be taken to court. Sec. 14 provides for a board and an appeal in certain other cases where there have been no condemnation proceedings. Both sections tie back to ch. 27, sec. 8, which provides for appeal from awards by county commissioners.

The formalities intended by these sections are somewhat difficult to work out. In practice this department has not set up technicalities if in good faith the landowner has proceeded promptly, but there remains some real doubt as to the legal effectiveness of condemnation proceedings that have been taken in the past, and the possibility that technicalities in the future may result in substantial injustice either to landowners or the state. The Attorney General drafted and presented to the last legislature a simplified condemnation statute, but it was rejected by the committee, not by reason of any substantial objection to its purpose and method, but because there was pending for adoption the statute passed as P. L. 1931, ch. 261, which relieved counties from the burden of paying one-half of certain land damage awards. Those who were advocating this change were apprehensive that the suggested condemnation statute might be inconsistent with their purpose. I recommend that a simplified condemnation statute should now be adopted.

Damages to the users of state highways are under the present law a responsibility of the state. Several small claims of this sort have been disposed of without a contest during the last two years. An action has been brought with an ad damnum of $10,000 for the death of a passenger in an

automobile caused, as the writ claims, by a defect in a bridge on the state highway in the town of York. This suit is returnable to the April Term, 1933, of the United States District Court at Portland.

In 1931 certain miscreants at Steuben blew up with dynamite a power shovel belonging to the Highway Commission. The Attorney General's department, with the aid of the highway police and the sheriff of the county, carried on an investigation; offered a reward of $250.00 for the arrest and conviction of the guilty persons; and subsequently paid the award on the conviction and sentence of the two persons responsible.

Remarkably few state road contracts result in an abandonment of the work by the contractor, the taking over of the contract by the state or the bonding company, and claims under the bond. The assistance of this department has been given in several such cases to the highway department during the last two years. The provisions of the standard Maine state highway construction contract fixing the obligations of the contractor and his bonding company for the payment of materials, supplies, labor and other items, are particularly effective.

The constitutionality of the financial responsibility act applicable to automobile driving licenses (R. S. ch. 29, sec. 91 to 98) was questioned in an equity proceeding, but the case has not been pressed. This department regretted the necessity of ruling in a letter to the Secretary of State on June 1, 1931, that this statute can be substantially evaded by the obtaining of a discharge in bankruptcy by the offending operator. (Opinion annexed). Our statute should be amended in conformity with the statutes in many other states, to deprive a discharge in bankruptcy of this effect.

The allowable size and weight of trucks and trailers were ruled on by this department in opinions to the Secretary of State, June 17, 1932; and State Highway Commission, March 19, 1932 (annexed to this report.)

The ruling as to trailers was questioned in an equity proceeding brought by the University Overland Express, Inc., against the Secretary of State in July, 1932. The Chief

Justice refused an injunction, and the proceedings were abandoned.

Other opinions are these:

Trucks of Maine corporations using Maine roads should be registered in Maine. (S. B. Larrabee, Portland, Jan. 30, 1931).

Towns at a special meeting may change the designation of state aid roads. (Commission, May 14, 1931).

Method of designating "through ways." (Commission, May 27, 1931).

What are "compact portions?" (Commission, June 10, 1931; opinion annexed).

Bond issue funds may be expended on the Bucksport-Verona bridge. (Commission, June 30, 1931; opinion annexed).

Interpretation of the new bridge act. (Commission, June 30, 1931; opinion annexed).

"Parking" under R. S. ch. 29, sec. 75, means stopping vehicles on the highway whether attended or unattended; what is "practicable" is a question of fact. (State Highway Police, June 30, 1931).

Sewage drains and public highway may constitute an abatable nuisance. (Selectmen, Eliot, June 29, 1931).

Traffic regulation by lights and strips painted on the road in village or city limits is for the municipality. (Commission, July 21, 1931).

Mere change of location of state highway does not discontinue former road as town or county way. (Commission, Sept. 8, 1931; clerk of courts, Farmington, Jan. 5, 1932).

The commission may remove trees or overhanging branches on state or state aid highways. (Commission, Jan. 11, 1932).

The state is not liable for interfering with private drains into or under a public road. (Commission, Jan. 25, 1932).

Persons attending a public meeting of a men's class at a church at Portland are not exempt by R. S. ch. 31, sec. 15, from tolls over the state bridge at Bath,—P. & S. L. 1925, ch. 89, sec. 6. (Commission, April 1, 1932).

The Waldo-Hancock bridge cannot be used for parachute jumping. (Maine Dev. Comm., July 11, 1932).

Properly raising any amount whatever qualifies a town under the three-towns act,—R. S. ch. 28, sec. 19-31. (Commission, Oct. 17, 1932).

One whose driver's license has been suspended may operate cars on private property or private ways. (Highway Police, April 5, 1932).

INDIANS

Opinions as follows:

Absence from the state does not deprive an Indian of tribal membership. (J. E. Gove, Perry, Mar. 11, 1931).

Indian Island is not "unorganized territory" within the jurisdiction of the Commissioner of Education. (Comm'r, Aug. 7, 1931).

On his return one who has been absent from the state may vote without a year's wait, though for a year he cannot share in tribal dividends; a woman marrying into another tribe does not necessarily lose her tribal status in the first tribe. (J. Lewis, Old Town, Oct. 26, 1932).

INLAND FISH AND GAME

Opinions as follows:

There is no general power to search the person without a warrant, except where crime is committed in the presence of an officer or a felony is involved. (H. A. Shannon, Brownville, July 2, 1931).

Search warrants cannot be issued in one county for use in another; unoccupied camps are not dwelling houses; occupied camps may be. (Comm'r, July 14, 1931).

The owner or lessee has the exclusive right to fish in ponds less than ten acres. (Comm'r, Aug. 1, 1931); and to trap on streams and flowed lands where he owns the soil beneath. (Comm'r, Apr. 22, 1932).

Open season, York county fishing, April 15th to October 1st; ice, Dec. 15th to March 1st. (Comm'r, Aug. 19, 1931).

Children under sixteen licensed to hunt may hunt unaccompanied. (Comm'r, Sept. 11, 1931).

Those owning land in a game preserve may hunt on it. (Ralph Josephson, Alna, Oct. 2, 1931).

Maine residents have no right to hunt and fish on the Canadian side of Spednic Lake except as New Brunswick law may permit. (T. S. Bridges, Danforth, Aug. 4, 1932).

INSURANCE DEPARTMENT

On compaints coming to the Insurance Commissioner and the Attorney General against the activities of salesmen and solicitors for certain organizations claiming to be associations for protection of automobile owners on the lines of the A. A. A. and the A. L. A., this department carried on an investigation late in 1930 and again in 1931. As a result a bill in equity was brought in the name of the Insurance Commissioner, against the Mutual Automobile Association, and several criminal prosecutions were initiated by county attorneys against its solicitors.

After a hearing before the Chief Justice the bill was dismissed by consent on the filing of a bond with the Insurance Commissioner by the proprietor of the defendant association,

guaranteeing against the recurrence of certain practices which had been a cause for complaint. No further complaint has reached this department.

The Fraternal Health and Accident Association brought a bill in equity against the Insurance Commissioner and the Commissioner of the Treasury, to test the application to it of R. S. ch. 12, sec. 50. The company did primarily a casualty business, and claimed that this statute was limited to life insurance companies. After a hearing the bill was dismissed, the Chief Justice ruling that death benefits under the Association's casualty policies involved life insurance within the meaning of this statute.

LABOR DEPARTMENT

Opinions are these:

The distinction between "wages" and "salary" in weekly payment statutes. (Comm'r, May 22, 1931).

Towns cannot deduct taxes due from wages owed. (Comm'r, Dec. 23, 1932).

LEGISLATIVE

At the regular session of the legislature in 1931 the legislature was assisted in the drafting of statutes by the Revisor of Statutes, Smith Dunnack, Esq., whose office was created by the legislature. This made unnecessary the services of a special assistant Attorney General for the same purpose. Mr. Dunnack did his work most effectively. During the recess of the legislature, in accordance with the council order of August 26, 1931, requiring him to act under the general supervision of the Attorney General, and to report from time to time to the Attorney General as he may require, Mr. Dunnack has kept in close touch with this department in carrying out his activities. His own report will be made direct to the legislature as required by law, but I can commend his careful work on the problems of revision and simplification on which he has been engaged.

In answer to inquiries from the House of Representatives the Attorney General on March 26, 1931, filed his opinion to the following effect,—

"Only the Law Court can rule on the constitutionality of legislation. My own opinion, however, is that House Paper No. 1169, Legislative Document No. 750, referred to in the House Order of March 25, 1931, is unconstitutional under the Federal Constitution and the Constitution of the State of Maine. It purports to confiscate property arbitrarily without due process of law.

"This answer to the first of the two questions which the House puts to me makes unnecessary a reply to the second."

On March 27th the following opinion was filed,—

"If the present legislature should fail to make reapportionment as provided by the Constitution, Article IV, Part Second, Section 2, and amendments thereto, the present apportionment would continue until another legislature made such reapportionment.

"This was what actually happened fifty years ago. The apportionment bill passed by the legislature of 1881 was vetoed by the Governor. The previous apportionment of the Senate by Chapter 275 of the Resolves of 1871, and of the House of Representatives by Chapter 286 of the Resolves of 1871, therefore, controlled the election of senators and representatives to the legislature of 1883 although by their terms both of these Resolves were limited to expire with the legislature of 1881.

"The legislature of 1883 made a new apportionment of the Senate by Chapter 117 of the Resolves of 1883, and of the House of Representatives by Chapter 114 of the Resolves of 1883. This new apportionment by the terms of these resolves, took effect beginning with the legislature of 1885.

"This is in answer to the question which the House put to me yesterday."

The following opinions were given to Representatives:

The legislature may classify sewage companies as public utilities. (W. R. L. Hathaway, Jan. 24, 1931).

"The legislature cannot provide separate voting precincts for town meetings for election of town officers. (H. G. Allen, Mar. 11, 1931).

OFFICES: INCOMPATIBILITY AND VACANCIES

The following opinions:

Vacancies in the office of county commissioner. (W. J. Robinson, Scarboro, Mar. 2, 1932; L. O. Barrows, Newport, Apr. 4, 1932).

Probably there is no incompatibility in the following offices:

Mayor and county treasurer. (W. J. Clark, Jr., Ellsworth, Feb. 7, 1931).

Trial justice and municipal judge. (R. B. Dow, Norway, June 1, 1931).

School committeeman and town clerk. (Mrs. S. M. Currier, South Windham, Aug. 12, 1931).

School committeeman and alderman. (Dr. R. J. Houston, Waterville, Mar. 10, 1932).

Probably there is incompatibility in the following offices:

Municipal judge and member of legislature. (N. Shaw, Bar Harbor, Apr. 13, 1931).

Sheriff and county commissioner. (T. C. Likely, Portland, Jan. 11, 1932).

Selectman and ballot clerk. (A. H. Morris, Steuben, Mar. 28, 1932).

Justice of the peace and register of voters. (G. Allan, Portland, May 12, 1932).

Judge of probate and municipal judge. (A. C. T. Wilson, Augusta, Nov. 26, 1932).

SEA AND SHORE FISHERIES

The following opinion:

No license is necessary for persons who buy clams to cook and serve. (Director, July 31, 1931).

TAXATION—GASOLINE

The administration of the gasoline tax was transferred by the code from the State Auditor to the State Tax Assessor, with whom this department has had frequent occasion to cooperate in regard to this very important source of state revenue.

Frequent conferences with the State Tax Assessor Mr. Holley, his office assistant Mrs. Griffin, and the traveling inspector Mr. LaChance, have been necessary, and there has been considerable correspondence and several conferences with tax administrators in other states. In only one case has a suit for the collection of a gasoline tax become necessary, and the year closes with substantially no overdue gasoline taxes,—a record of which the State Tax Assessor's office may properly feel proud.

Soon after the adjournment of the regular session of the legislature in 1931 the Standard Oil Company of New York raised the question of the application of the gasoline tax to gasoline used as well as gasoline sold in the state. In order to test the matter the company declined to pay the tax for

the month of March, 1931, on the gasoline used in its own trucks. A suit was brought by this department; the facts were stipulated and reported to the Law Court for a decision. The court ruled the tax to be a tax simply on gasoline sold. (*State v. Standard Oil Co.*, 131 Me. 63).

To overcome the effect of this decision a special session of the legislature was called which convened on April 1, 1932, and unanimously passed a revised gasoline tax act which had been drawn up by the Attorney General after a study of the gasoline taxes of the other states in the country. Included in the act are provisions for making more effective the collection of the tax.

Several requests have been received by this department for the refund of taxes paid without protest on gasoline used during the period from the passage of the original gasoline tax act to the time of the announcement of the above's decision Feb. 23, 1932. All such claimants have been referred to the claims committee of the legislature. Such few taxes as were unpaid on that date on gasoline used, as distinguished from gasoline sold, became, of course, uncollectible, but this fact does not carry with it automatically the right to a refund of taxes previously paid without protest.

Opinions are these:

No exemption for rural mail carriers. (State Auditor, Aug. 6, 1931).

Taxability of naphtha. (State Auditor, Oct. 19, 1931; opinion annexed).

Distributors' certificate must be posted in every place of business. (State Tax Assessor, Apr. 12, 1932).

Farmers are not exempt from gas tax on trucks used on farms. (State Tax Assessor, July 29, 1932).

A six thousand gallon lot delivered in one shipment is a purchase by a distributor, although delivered in several wagons or containers. (State Tax Assessor, Sept. 10, 1932).

TAXATION—INHERITANCES

Subsequent to the filing of report of this department for the years 1929-30 an appeal was taken to the Supreme Court of the United States from the decision for the State of Maine in the case of *State of Maine vs. First National Bank of Boston*, 130 Maine 123. The Maine Supreme Court ruled

taxable under the Maine inheritance tax shares of stock in a Maine corporation belonging to a Massachusetts decedent.

The state's case was argued by the Attorney General of Maine in the Supreme Court of the United States in December, 1931. Leonard A. Pierce, Esq., of Portland, argued the case for the bank. The case attracted a great deal of interest. Briefs in favor of the tax were filed by the Attorneys General of Kentucky and Minnesota; three opposing briefs were filed by representatives of banking and other interests.

The opinion of the Supreme Court of the United States delivered by Mr. Justice Sutherland, on January 4, 1932, and reported in 284 U. S. 312, sets aside the judgment of the Maine Supreme Court, and thus completes the course of judicial legislation entered upon by the federal Supreme Court in the two cases in 1930 referred to in the last report of this department.

A dissenting opinion was filed by Mr. Justice Stone; concurred in by Mr. Justice Holmes and Mr. Justice Brandeis.

Due to the operation of the reciprocal clause our income had been diminishing under the tax which the highest federal court thus invalidates, but in earlier years large sums had been collected. Immediately after the decision requests for refunds began to come in, to all of which this department replied as follows,—

"There is no provision of Maine law for refund of inheritance taxes paid by non-resident estates on the transfer of stocks of Maine corporations under the Maine statute which has been recently held unconstitutional by the Supreme Court of the United States in *First National Bank of Boston vs. State of Maine.*

"The Attorney General's department, therefore, can only place on file, without action, such requests for refunds as are received."

In answer to inquiry made of this department regarding its future policy with reference to waivers the following reply was given to Prentice-Hall, Inc., New York under date of January 21, 1932,—

"You inquire regarding the future policy of this department as to waivers or consents in writing by the Attorney General to transfers of stock in Maine corporations held by non-resident decedents in view of the recent decision in the United States Supreme Court in *First National Bank of Boston, Executor, Estate of Edward H. Haskell, vs. State of Maine.*

"It does not seem to me that this is a question for the determination of this department. Our law makes no express provision regarding waivers. It imposes liability in debt for the tax against any person or corporation which delivers or transfers securities or assets of non-residents without the payment of an inheritance tax, as well as against the executor, administrator or trustee.

"In practice transfer agents, on the basis of affidavits that the inheritance tax due in this state has been paid or that no such tax is due, have asked that this department furnish waivers or consents in writing to the transfer of securities, and this department has given such waivers and consents when satisfied of these facts.

"Whether or not such waivers or consents will hereafter be requested of this department is a question for determination by the transfer agents. They will decide for themselves whether there is any practical likelihood of liability on their part if they henceforth make such transfers without obtaining such waiver or consent.

"You also inquire what date will be used in giving effect to the rule in the Haskell case freeing non-resident estates from taxation on transfers of the stock of domestic corporations. That decision as we view it, sets forth a rule of law irrespective of date. We shall not attempt to collect any further taxes under our inheritance tax law on transfers of stock of Maine corporations belonging to decedents non-resident in Maine, but resident in the United States.

"We do not understand, however, that the doctrine of the Haskell case necessarily extends to non-resident aliens of the United States, and as at present advised shall assess inheritance taxes under our law on estates of non-resident aliens in this state taxable by our law, including their shares in Maine corporations."

Five other questions under the inheritance tax law have been carried to the Maine Supreme Court by report of stipulated facts.

In re *Estate of James N. Hill*, 131 Me. 211, the court ruled taxable all bequests to a cemetery association where the testator is not buried, and those bequests to the cemetery where he is buried which are to be spent for purposes not directly connected with the testator's own burial lot.

In re *Estate of Lena Clark*, 131 Me. 105, the court ruled free from taxation a bequest to a town for the purpose of building and maintaining a town hall. The court held that the town is a charitable corporation, and the purpose charitable under the statute.

Two other cases will be in order for entry in the Law Court early in 1933 involving the same exemption section which was ruled on in these two cases.

In re *Estate of Frederick A. Powers* (appeal from Penobscot County) the question involved will be the taxation of a bequest to a town for cemetery purposes.

In re *Estate of Joseph J. Curtis* (appeal from Hancock County) the question will be as to the taxability of a bequest to a town for maintaining a park for inhabitants of the town and their guests.

In re *Samuel W. Bates, Executor*, 131 Me. 176, an appeal from Hancock County, the court ruled free from taxation shares of stock in a Massachusetts real estate trust belonging to the estate of a Maine decedent.

The following sums have been collected from estate and inheritance taxes during the calendar years 1931 and 1932,—

	1931	1932
Total estate taxes	$1,601,070.40	$193,105.15
Total resident inheritance taxes	1,205,739.43	481,552.38
Total non-resident inheritance taxes	33,358.02	11,382.57
Grand total	$2,840,167.85	$686,040.10

In accordance with the recommendation in the last report of this department, the legislature authorized the appointment of a recess commission to recommend a revised inheritance tax law. (P. & S. L. 1931, ch. 107). This commission, composed of Hon. Harold H. Murchie of Calais, Senator from Washington County; Hon. Franz U. Burkett of Portland, and Hon. Nathaniel Tompkins of Houlton, Members of the House of Representatives; Hon. Harry B. Ayer, Judge of Probate, York County; and Roland E. Clark, Esq., Vice-president of the Fidelity Trust Company, Portland, have spent much time in carrying out their duties. The assistant Attorney General in charge of inheritance taxes, Phillip D. Stubbs, has served as clerk to the Commission, and the Attorney General has attended its sessions.

The Commission's report, which has been filed with the Governor and Council for transmittal to the incoming legislature, embodies the result of a most careful inquiry into the whole problem. I am confident that its adoption would not only increase the inheritance tax revenue of the state, but also would result in a much more efficient and equitable adminis-

tration of the tax. I certainly hope that the legislature will adopt the recommendations of this Commission.

TAXATION—MISCELLANEOUS

It seems to me that the time is ripe for an inquiry into the tax laws of the state somewhat as the inheritance tax commission above referred to has inquired into the inheritant taxes. Such commissions in 1890 and 1907 made suggestions of great value to the state. One cannot be connected with the legal department of the state for four years without becoming increasingly aware of the many inconsistencies and ineffective provisions in our tax laws. The legislature might well consider the advisability at this time of setting up such a commission.

The excise tax law on motor vehicles which was new in 1929 has become systematized in practice so that few questions regarding its interpretation have come before this department for answer during the last two years.

These and other opinions on miscellaneous tax matters follow:

K. of P. building exempt. (H. R. Young, Matinicus, Apr. 29, 1931).

Under P. L. 1931, ch. 223, the minimum tax during the last four months of a year is 66⅔ cents. (Collector of taxes, Hartland, Sept. 23, 1931).

One who does not pay an excise tax on his car for the year is liable for property tax thereon. (Collector, Milford, Sept. 23, 1931).

Northport cannot tax Belfast Water District property. (State Assessors, Nov. 19, 1931).

Assessments on widows of World War veterans. (F. E. Richards, Princeton, Dec. 5, 1931).

Potatoes stored are taxable under R. S. ch. 13, sec. 14. (State Tax Assessor, Jan. 22, 1932).

The auxiliary forest law is inapplicable to unorganized townships. (Hollingsworth & Whitney, Waterville, Feb. 17, 1932).

Tax exemptions cannot be voted. (C. M. Burgess, Union, Mar. 18, 1932).

Undivided profits of savings banks. (State Tax Assessor, Oct. 19, 1932; Nov. 21, 1932; opinion annexed).

TOWNS

It is not the official duty of this department to give opinions to town officers, but many inquiries come in which are

answered unofficially as an indication of the desire of the department to cooperate with local authorities. Among such opinions during the last two years are these:

No liability by town or school authorities for athletic equipment ordered by pupils. (K. S. Nickerson, Winterport, Jan. 6, 1931); or for injury in school busses. (Comm'r Education, Sept. 9, 1932; Supt. schools, Rumford, Sept. 3, 1932).

One ballot for all selectmen probably legal. (R. L. Gowell, Auburn, Jan. 7, 1931).

Duties and liabilities of school physicians with reference to pupils' health. (A. D. Gray, Eastport, Jan. 30, 1931).

No statutory requirement that English language be used for town business. (A. S. Melanson, Madawaska, June 4, 1931).

Towns may discontinue cemeteries and remove headstones and remains. (F. W. Smith, Buxton, Oct. 2, 1931).

Plantations can elect road commissioner for three years. (F. E. Williams, Caratunk, Mar. 28, 1932).

Aliens may serve as road commissioner. (J. H. Durgin, The Forks, Mar. 28, 1932).

Special town meeting to fill vacancy in selectmen probably unnecessary. (P. E. Woodbury, Damariscotta, Nov. 26, 1932).

TRUST FUNDS

At the suggestion of the Governor the Attorney General arranged with Frank I. Cowan, Esq., of Portland, to examine into and prepare a report on the state trust funds. Certain depletions in these which occurred in the past have been restored by proceeds of inheritance taxes during the present administration in accordance with R. S. ch. 2, sec. 87. Mr. Cowan prepared a very comprehensive report which was transmitted to the Governor on September 30, 1931, and subsequently supplemented this with a report at the end of the fiscal year, July 1, 1932.

In his supplemental report Mr. Cowan states as follows:

"It gives me pleasure to report that all the state trust funds that have been surveyed as a result of the investigation authorized by Governor Gardiner have been restored, and that the income is being used in accordance with the expressed wishes of the donors so far as this can be ascertained."

Mr. Cowan's original report is on file in the office of the State Treasurer, and a copy of it in the Attorney General's office. A summary of his report and recommendations has been printed as an executive document.

WORKMEN'S COMPENSATION FOR STATE EMPLOYES

The administration of the workmen's compensation act with reference to state employes has been efficiently conducted during the last two years, as during the years 1929-30, by Richard Small, Esq., of Portland, an assistant Attorney General designated for the purpose. Mr. Small makes the following report under date of December 31, 1932:

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, 1930, 1931 and 1932:

	1929	1930	1931	1932
Number of accidents in state highway department	283	403	422	451
Number of accidents in all other departments	14	8	17	18
Totals	297	411	439	469

You will note that the number of accidents in 1932 has increased 172 in number over 1929, an increase of over fifty per cent. A large part of this increase is due to the assumption by the state of responsibility for compensation to workmen injured in third class highway work where, by a change of practice, the state instead of the town has carried on the construction. This has caused an increase of 25% in the time required for carrying out my duties. There were four fatal accidents in 1932, one in the forestry department, and three in the highway department.

The total payments made, apportioned by years when the accidents occurred, are as follows:

	1929	1930	1931	1932
State highway department	$36,824.12	$37,220.69	$41,226.98	$30,455.08
Other departments	10,518.28	2,229.17	5,648.42	2,283.56

The above figures do not show the amounts spent in the calendar years but shows what the accidents in the respective years have so far cost, to date. For example, $36,824.12 is the total amount spent on accidents which occurred in the state highway department in 1929, to the present time, this expenditure having been made during the several years since the date of the accident.

I have collected $1,000.00 on a subrogation claim in the Ferdina Pomerleau case; and several smaller sums in other such cases.

I am told that the total amount of the payroll for employees of the state highway department subject to compensation was around $4,000,000.00 for 1932.

The number of hearings before the Industrial Accident Commission:

1929	53
1930	62
1931	72
1932	84

Accidents investigated:

1929	79
1930	91
1931	89
1932	138

In connection with his report Mr. Small files the following tabulations:

EXPENDITURES ON WORKMEN'S COMPENSATION CASES APPORTIONED BY YEARS WHEN PAYMENTS MADE—HIGHWAY DEPARTMENT

1929	$43,670.84
1930	47,539.19
1931	48,507.56
1932	75,287.55

The figure for 1932 is subject to a deduction of about $2,000.00 for rebates, refunds and cancelled checks, and a further deduction for subrogation collections.

The following tabulations show the finished cases and active cases pending at this date, apportioned by years of origin, with the amounts paid out to date on these cases for compensation and medical expense:

ACTIVE CASES, DEC. 31, 1932, HIGHWAY DEPARTMENT

Year	No. of cases	Compensation paid	Medical bills paid
1926	2	$8,968.20	$1,419.10
1927	2	11,103.55	1,605.15
1928	5	13,249.91	606.95
1929	6	12,259.35	2,830.52
1930	5	2,900.00	1,481.71
1931	16	8,028.39	4,783.40
1932	219	12,614.51	10,502.34
Totals . . .	255	$69,123.91	$23,229.17

ACTIVE CASES, OTHER DEPARTMENTS

Year	No. of cases	Compensation paid	Medical bills paid
1928	1	$1,852.30	$549.00
1929	2	4,956.00	———
1930	2	3,848.14	695.85

1931	3	1,692.01	150.00
1932	14	919.25	851.00
	22	$13,267.70	$2,245.85

PAYMENTS IN FINISHED CASES APPORTIONED BY YEARS WHEN ACCIDENTS OCCURRED—HIGHWAY DEPARTMENT

Year	No. of cases	Compensation paid	Medical bills paid
1915	1		
1916	6	$33.18	$43.00
1917	7	2,610.36	120.50
1918	22	925.19	559.12
1919	32	4,844.42	434.48
1920	45	13,472.71	2,268.53
1921	82	10,641.03	2,798.84
1922	68	16,577.31	3,397.09
1923	78	14,125.46	3,642.23
1924	122	17,582.79	5,766.69
1925	147	34,138.06	11,439.61
1926	147	27,153.56	10,934.91
1927	167	9,814.87	7,242.15
1928	255	16,522.74	9,718.06
1929	277	12,220.72	9,513.53
1930	398	22,568.08	10,270.90
1931	408	17,572.81	10,842.38
1932	249	3,858.09	3,480.14
Totals....	2511	$224,661.38	$92,472.16

No cases on the application of the Workmen's Compensation Act to state employes have been carried to the Law Court during the last two years, nor have many formal rulings been necessary.

The question arose whether compensation to town employes injured while working on snow removal should be compensable by the state or not. This department ruled to the contrary under date of Mar. 19, 1932, on the following basis,—

"The ruling of the Law Court under the old third class highway act applies. These snow removal employes are hired and paid by the town, and their activities are directed by town officers. The only connection of the state with their work, as I understand it, is that state supervisors inspect their work, and make suggestions during the process thereof, the state reimbursing the town for the expenditures after they have been made. This, it seems to me, does not make these employes state employes."

It is still a question whether or not it would be advisable, as suggested in the last report, for the legislature to make a single appropriation for the payment of workmen's compensation. As a matter of principle and bookkeeping, yes; as a matter of practical expediency the present system under the efficient oversight of Mr. Small, and with the Industrial Accident Commission as a court to pass on controversies, seems to work very satisfactorily. The recommendation has been made to the state highway department that it set aside a fund of $60,000 for each fiscal year to cover the expendituers for workmen's compensation in that department. Experience seems to indicate that this is sufficient, and on a $4,000,000 payroll is about 60% of the premium which an insurance company would charge.

SUMMARY OF RECOMMENDATIONS

1. An assistant Attorney General should be assigned to the highway department to coordinate its legal work, eventually, if not at the present time.
2. The statute defining procedure in land damage cases should be revised.
3. The financial responsibility act should be amended with reference to discharges in bankruptcy.
4. The revised inheritance tax law submitted by the special commission should be passed.
5. The legislature might well consider the advisability of setting up a commission to inquire into the tax system of the state.
6. The adoption of the recommendations made in the report on trust funds should be carefully considered.

CRIMINAL MATTERS

The functions of the Attorney General with reference to criminal cases have continued to occupy a large proportion of the time and attention of the incumbent. The cooperation of the state highway police, the local sheriffs and police, and the local prosecuting attorneys has been continually helpful and valuable. The several county attorneys have availed themselves freely of their right to consult with the Attorney

General, and to have his assistance. This has been extended not only personally, but in several instances through temporary assistants appointed for the purpose.

In but few instances during the last two years has it been necessary to employ private detectives to supplement the work of these officials, but such cases have occasionally arisen, particularly where confidential complaints have been received by this department, either directly or from other departments.

HOMICIDES

The prosecution of homicides in cooperation with the local county attorneys is peculiarly the duty of the Attorney General. In murder cases the responsibility is primarily his. In other homicide cases he stands ready to give any assistance within his power to the local prosecutor. In the past four years he has assisted in the preparation and trial of many of the indictments for voluntary manslaughter.

The following is a summary of the homicide cases during the years 1931 and 1932,—

Androscoggin county

Francois Lachance was indicted at the June Term, 1932, for the murder of Elbridge Jacques. The victim was a taxicab driver who disappeared during the previous fall, his taxicab stained with blood being found abandoned in Lewiston. In the spring the body of the victim was found concealed under debris beside a country road in the outskirts of the county. Lachance, apprehended in Canada, brought back to Portland, confessed to the killing, but claimed that he did the act while under the influence of a sudden passion. There were no eye-witnesses. His plea of guilty to manslaughter was accepted, and he was committed to the state prison.

Charles Maines, indicted and tried at the January Term, 1932, for manslaughter, was found not guilty. The jury believed his testimony that he shot in self-defense.

Aroostook county

Located after many months of search, Lena A. True was indicted at the April Term, 1931, for the murder of an unnamed infant whose body was found in the spring of 1930 in

the privy of the farm where she had been working early in the previous winter. She was put on trial and found not guilty.

Ralph W. Reynolds was indicted and tried at the April Term, 1931, for the murder on November 17, 1930, of a companion named Clyde Richardson with whom he was testing out a newly purchased gun. Robbery was supposed to be the motive, and the State relied upon inconsistent statements of Reynolds. Reynolds claimed the shooting was accidental, and the jury found him not guilty.

The case against Ralph J. Benner indicted at the April Term, 1931, for negligent shooting of a human being while hunting, was nol prossed by the county attorney for insufficient evidence, in 1932.

Cumberland county

Ascenzo Ventresco was indicted at the May Term, 1931, for the murder on March 8, 1931, of Robert Gallant. The victim was shot several times while attempting late at night to effect an entrance into Ventresco's room. A plea of guilty to manslaughter was accepted, and Ventresco sentenced to the state prison.

Fred P. Ring was indicted at the September Term, 1931, and tried at the May Term, 1932, for the murder on July 11, 1931, of one William Philbrook. The respondent admitted that while on a hayrack in a field whose ownership was disputed between him and the victim, he shot the victim, and subsequently concealed his body. He was found not guilty by the jury on the basis of his testimony that he shot in self-defense against an attack with a pitchfork.

Manslaughter cases were these:

Michael P. Curran,—Sept. Term, 1931. Homicide in an affray. Verdict: not guilty.

Arthur Paquette,—Jan. Term, 1931. Automobile case. Verdict: guilty; sentenced to county jail.

William E. Gray,—Jan. Term, 1931; automobile case. Verdict: guilty; sentenced to the state prison.

Franklin county

Franklin C. Douglass, indicted and tried at the October Term, 1931, for manslaughter, with Leo Keniston as accessory, was found guilty on the trial, and the case against Keniston

nol prossed. The state's case against the principal fell when the accessory refused to testify against him, on the ground of self-incrimination.

Kennebec county

Abraham Levine, one of several brothers living at a farmhouse in the outskirts of Waterville, with Eleanor Johnson, a colored woman as housekeeper, was found shot in his room on the ground floor of the farmhouse late in the evening of September 26, 1931. Some weeks later a revolver was found on a dump in the city of Waterville, whose purchase was traced to the housekeeper, and an expert opinion was obtained that the bullets which killed Levine were shot from the revolver. The housekeeper admitted intimate relations with the victim. The evidence tended to show a growing coolness between them, and some lack of good feeling between the brother and the housekeeper. An unfinished check apparently in the handwriting of the victim, payable to an unidentified name, and with the notation "for Mrs. Johnson's cash" was found by his dead body. The housekeeper and brother were arrested and bound over to the superior court. The housekeeper was indicted for the murder, no bill being found against the brother. The trial lasted a week at the February Term, 1932. Eye witnesses testified to the woman's movements during the evening, which the state argued showed that she had the opportunity to commit the crime. On the other hand, the defendant raised a doubt as to the exact time of death; claimed an alibi for the evening; and made a general denial of guilt. The jury had a reasonable doubt, and freed the respondent.

Francis Houston, a former employe at the state hospital for the insane, was indicted at the June Term, 1931, for manslaughter of a patient by gross carelessness in the administration of an enema. He pleaded guilty and was sentenced to the state prison.

The jury at the June Term, 1932, found Lincoln Reed guilty of manslaughter in the operation of an automobile, and he was sentenced to county jail.

Knox county

On March 18, 1931, Mrs. Mertie Wellman, living with her husband and children in Rockport, disappeared from home.

Some weeks later her decomposed body was found in a pasture near her home with the skull crushed. Investigation showed that Alden Boulier, serving a life sentence in the state prison for murder, having escaped from temporary confinement in the criminal ward of the insane hospital at Augusta, had been working on an adjoining farm under an assumed name. He disappeared at the same time when the victim was last seen, and had been on intimate terms with her. A reward of $1,000.00 was offered by this department for his apprehension. He was located in Aroostook county, and indicted for murder at the November Term, 1931. In view of the fact that he had been returned to the state prison to serve out his original conviction for another murder, this case was filed.

At the May Term, 1932, a grand jury examined for the third time into the circumstances leading to the death in 1930 of William Davis, a young lad at Port Clyde, referred to in the last report of this department, and indicted Eldridge Stone for manslaughter. The case went to trial and resulted in a directed verdict of not guilty.

Lincoln county

On July 15, 1931, Reddington Genthner, an elderly hermit at Waldoboro, was murdered by a shotgun and robbed of a large amount of money. Investigation showed that shortly after the murder William G. Mank disappeared from his home in Waldoboro, and abandoned his automobile in Lewiston. Mank was located in a hospital at Albany, New York, recovering from an attempt at suicide. Many banknotes of large denomination were found on his person, and he confessed to the crime. Tried at the November Term, 1932, he was found guilty and sentenced to the state prison for life.

Oxford county

Sanni Hinden, a Finnish woman living with her husband and children on a farm, was indicted and tried in February, 1931, for the murder of John Koistinen on December 23, 1930, with a shotgun at the conclusion of a drunken party. She was found not guilty on her testimony that she shot in self-defense.

Olive Murch Smith was indicted at the October Term, 1931, for the murder of an unnamed infant in August. Due

to the fact that the Attorney General was busy at Augusta in connection with the recount of ballots in the third congressional district, Ralph M. Ingalls, Esq., of Portland, for ten years prior to 1931 efficient prosecuting attorney in Cumberland County was commissioned an assistant Attorney General for the purpose of presenting the case to the grand jury and attending at the trial. The case, however, went over to the February Term, 1933, for disposal.

Raymond O. Winter, indicted in May, 1931, for manslaughter in connection with operation of an automobile, pleaded guilty and was sentenced to the state prison.

Penobscot county

Henry L. Babcock was indicted and tried at the June Term, 1932, for the murder on April 19, 1932, of Mrs. Flora Goodale at Hampden. Babcock had formerly roomed at her house. Some illwill had developed. He came to the house with a revolver, and shot both the woman and her daughter; the daughter, however, recovered. Found guilty, he was sentenced to the state prison for life.

Frank A. Bickford, indicted at the June Term, 1931, for manslaughter in connection with an abortion, pleaded guilty and was fined $1,000.00 because of his precarious condition of health. The fine was paid. Subsequently the respondent died.

Other manslaughter cases in this county arising from the operation of automobiles:

Samuel W. Inman, January Term, 1931; pleaded nolo, sentenced to jail, six months.

J. D. Osgood and Lawrence H. Osgood, September Term, 1932; cases stand over to 1933 for disposal.

Piscataquis county

Edgar Millard Bennett was indicted at the September Term, 1932, for the murder of Joseph Ellis. The victim was an elderly man living alone and supposed to have considerable money on his person. Robbery was the motive. Bennett having made some admissions regarding the crime, was arrested. He confessed, and was sentenced to the state prison for life on his plea of guilty.

The indictment at the September Term, 1932, against Charles Conley from the operation of an automobile for manslaughter, was nol-prossed for lack of evidence.

Sagadahoc county

Thomas H. Pearson was indicted in January, 1931, for the murder of Harold O. Wagner on December 31, 1930. The victim had angered Pearson by references to Pearson's wife. Pearson followed him up an alleyway and shot him. On trial the jury found him guilty of manslaughter, and he was sentenced to the state prison for the maximum term for that offense.

Dora Bearisto, a pupil in the Richmond High School, having died in June 1931, under suspicious circumstances, an investigation was made, at the instance of the Attorney General, by Eugene A. Cloutier of Lewiston, an expert criminal investigator, in cooperation with the sheriff of the county. Ralph M. Ingalls of Portland was commissioned as an assistant Attorney General to coordinate the investigation, prior to the grand jury session. On the basis of a confession secured from Jesse Tarr, Elbert M. Bates was arrested and bound over for manslaughter, and Tarr was also held for the grand jury. The grand jury at the November Term, 1931, indicted Bates for manslaughter; Tarr as accessory, and as principal in procuring an abortion. Tarr pleaded guilty to the latter offense, and was sentenced to the state prison, but Bates was found not guilty, although Tarr turned state's evidence against him.

Somerset county

Peter Adamin and William Dorson were indicted at the January Term, 1932, for manslaughter for negligently shooting a human being. Both pleaded guilty. Adamin was sentenced to the state prison; Dawson given probation of a jail sentence on payment of costs.

Washington county

George W. Talbot, living alone and carrying on a filling station and drinking place at Perry, was found murdered in his woodshed about four o'clock in the afternoon on October 1, 1932. A few days later a revolver was located in St. Stephens, N. B., which had been stored there by John Brown, who, with Norris Whelpley, were among those present at Talbot's

place at about the time when Talbot was last seen alive at one o'clock. Captain C. J. Van Amberg, ballistics expert of the Massachusetts state highway police, examined gun, bullets and three shells found in the woodshed, and deduced that the fatal bullets were fired from this gun. Brown and Whelpley were arrested; indicted at the October Term for murder, and tried the week beginning November 28, 1932. The trial lasted into the second week. The defense denied the crime; relied on an alibi; and offered an expert witness in contradiction to Captain Van Amberg. The defense also relied on the testimony of a disinterested visitor to the woodshed who did not see the dead body about half an hour before it was discovered. The jury gave the benefit of reasonable doubt to the respondents, and found them both not guilty.

Involuntary manslaughter cases at the February Term, 1931, in connection with hunting:

Lawrence L. Mugnai, fined on plea of guilty.
Herbert M. Andrews, nol-prossed for lack of evidence.
Alton Calor, nol-prossed for lack of evidence.

York county

Honore Dutremblay, a policeman in the city of Biddeford, was shot and instantly killed on April 8, 1932, by the occupant of an automobile whom he had accosted as it stood parked on a Biddeford street. The driver of the automobile, which had been stolen in Portland, escaped in the car to Portland where he was seen and pursued by members of the Portland police department, who recognized the number of the car. After an exciting chase he abandoned the automobile and was caught between some buildings, but was seen to conceal a gun just before he gave himself up. This gun was identified by Captain Van Amberg as the gun which fired the bullet which killed Dutremblay. Noll was indicted and tried at the May Term, 1932; found guilty, and sentenced to the state prison for life.

Manslaughter cases from automobile driving:

Ernest Chateauneuf, January Term, 1931; verdict not guilty.

Antonio Paulhus, October, 1931; sentenced to eleven months in the county jail on plea of guilty.

Israel Lemieux, October, 1932; found guilty by jury, Oct. Term, 1932; sentenced eleven months in county jail.

Armand Therrien, October, 1932; verdict not guilty.

SUMMARY OF FOUR YEARS' STATISTICS IN HOMICIDE CASES 1929-1932

It may be of some interest to collect for comparison the homicide statistics of the four years of the present administration.

In all there have been 75 respondents indicted for homicide. Of these, 35 have been indicted for involuntary homicide; i. e., 30 for careless or drunken operation of automobile; 5 for careless hunting. Of these 35, 20 have resulted in pleas or verdicts of guilty; 7 of not guilty; 6 have been nol-prossed, and 2 are pending. How many other such cases have been inquired into by sheriffs, police and prosecutors it would be difficult to say. The number of deaths caused by such carelessness is alarming, but the lines between accident, civil negligence and criminal carelessness are difficult to draw, and few deductions can be made from the tabulation of such indictments.

Of voluntary homicides more exact figures can be given. Twenty-five have been indicted for murder; 15 for manslaughter or accessory; 4 cases which appear to have been murder have been investigated without result, and at least three, possibly five, such cases occurring in November and December, 1932, remain over for investigation and probable indictment in 1933.

Of the 25 indicted for murder, 4 pleaded guilty to murder in the first degree, 7 to manslaughter, and 4 were found guilty after a trial. Of the 15 indicted for manslaughter or accessory 4 pleaded guilty. All these 19 respondents were duly punished, in most cases by sentence to the state prison.

Of those indicted for murder 8 were found not guilty by a jury; of those indicted for manslaughter 5. There were 9 trials for murder; 7 for voluntary manslaughter. Two persons convicted for manslaughter on a first trial obtained a new trial which resulted in a disagreement, and the cases were filed.

One indictment for murder stands continued to 1933; one was filed. Six of the indictments for voluntary manslaughter were nol-prossed or filed.

The state has a population of about 800,000; so that it may be said that taking the average of the four years here con-

sidered, less than two persons per 100,000 per year commit a voluntary homicide in Maine, and just about one per 100,000 a murder, and in half these cases a sentence results, usually to the state prison. In short, three out of five persons who commit a murder in the state go to the state prison.

Certainly the state's "homicide rate" is exceedingly low; and the percentage of punishments for the offense when committed is high.

CRIMINAL STATISTICS

In preparing the criminal statistics for the last two years I have been again aided, as I was in the preparation of my previous report, first by the willingness of the county attorneys to furnish the requisite information; and, secondly, by the efficient assistance of Sam Bass Warner, Esq., of the Harvard Law School, the statistical representative of the recent National Commission on Law Observance and Enforcement appointed by President Hoover, with George W. Wickersham as Chairman.

Mr. Warner has compiled the statistics from these reports for the last two years, as he did the statistics for the years 1929-1930 in my previous report, and submits them with comments, as follows,—

MAINE CRIMINAL STATISTICS FOR THE YEAR ENDING NOVEMBER 1, 1931, AND THE YEAR ENDING NOVEMBER 1, 1932

The cases of 2238 defendants were disposed of in the superior court of Maine during the statistical year ending November 1, 1931, and of 1986 in the following year ending November 1, 1932, according to returns submitted by the several county attorneys to the Attorney General. 897 of these cases, or 40% in 1931, and 781 of these cases, or 39% in 1932, were for offenses involving intoxicating liquor—that is drunken driving, violating liquor laws and intoxication. 635 cases in 1931, and 575 cases in 1932, or 28% of the totals, were for the acuisitive offenses of robbery, breaking and entering, forgery and larceny. Next in numerical importance in both years came sex offenses (140 and 112), assault and battery (100 and 105), and violations of motor vehicle and traffic laws (87 and 95). The great majority of the cases coming before the courts do not deal with serious crimes, but rather with the so-called regulatory offenses, as less than 5% of the prosecutions in either year 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 totals are still less than a third of the entire number of prosecutions in each year.

The total prosecutions were again in 1931 and 1932 less proportionately to the population than the numbers for any but four of the last twenty-five years. Although the total of 2238 in 1931 was 372 greater than in 1930, in 1932 it was only 120 more. The 1931 increase was not spread evenly over the entire list of offenses, but confined almost wholly to the acquisitive offenses, sex offenses, drunken driving, and the miscellaneous group. Over half the increase was in the acquisitive group of offenses, all of which increased materially. The greatest proportionate increase was 123% in forgery, while the largest absolute increase was 93 cases, or 56%, in breaking and entering. This large increase in 1931 over 1930 in prosecutions for forgery, larceny and breaking and entering was not unexpected. There has been a decided upward trend in such cases since 1900, which was doubtless accentuated in 1931 by the depression. In Massachusetts also, prosecutions for the same offenses increased greatly in 1931.

While the 1932 figures are lower than those of 1931, they are still higher than those for 1929 and 1930 as to these acquisitive offenses of breaking and entering, forgery and larceny. This is also true of sex offenses, but not of drunken driving which was only four above the lowest it has been during the four year period. Also the miscellaneous group—considering that for comparative purposes game law violations must be included in it—while slightly lower than in 1931 still shows an increase over 1929 and 1930.

The number of prosecutions for murder and for rape, has remained very small during the last three decades without any marked trend up or down. Robbery, however, takes a jump in 1932, when the figure rose to more than half of all robbery cases in the last four years, and was probably compensated for only slightly by a decrease in the number of felonious assaults.

On the other hand, prosecutions for violating liquor laws continued to decline. In 1931 there were 627 such cases, that is 34 less than in 1930 and 151 less than in 1929; and the 1932 figure of 564 is still lower than that of 1931 by 63. While this general decrease in the 1930 and 1931 figures may be partly accounted for by the system of checking the returns to eliminate duplication, no such statistical fluctuation would account for that of the 1932 figure against those of the two previous years. In 1900 there were nearly four times as many prosecutions for violating liquor laws as for all other offenses combined. By 1915, liquor cases had dropped to only half the total number of cases, and by 1931 and 1932 they had declined so much more and prosecutions for other offenses had so increased that they constituted in both years only 28% of the total. In both years, the number of liquor cases is greatly in excess of the number of defendants prosecuted for liquor law violations. (Most liquor cases are now within the jurisdiction of the lower courts and are there disposed of. Several com-

plaints or indictments against the same respondent enable the prosecutor to enforce one sentence and hold another over the offender to ensure his future good conduct. C. F. R.)

The following table indicates how cases arising by indictment and appeal were disposed of in 1931 and 1932:

	1931		1932	
	Indictments	*Appeals*	*Indictments*	*Appeals*
Total cases per cent	100	100	100	100
Nol-prossed, dismissed, etc.	22	33	24	37
Acquitted	3	4	5	4
Convicted by jury	6	4	10	6
Pleaded guilty	69	59	61	53
Total convicted	75	63	71	59
Total convictions per cent	100	100	100	100
Continued for sentence, etc.	7	12	16	22
Probation	40	21	27	21
Fine	3	26	1	19
Imprisonment	50	41	56	38

Commendation is due the county attorneys for the unusually high percentage of convictions secured in jury trials. In both 1931 and 1932, twice as many indicted defendants were found guilty by juries as were acquitted. Particularly praiseworthy is the record of Walter M. Tapley, Jr., the county attorney of Cumberland county, who had but eleven acquittals in fifty-four trials of indicted defendants during the two years covered.

A change in the disposal of cases against convicted defendants in 1931 deserves comment. In 1930 over 30% of the cases against convicted defendants were continued for sentence, while in 1931 less than 10% and in 1932 about 19% were so handled. The decrease in cases continued for sentence was taken up partly by the greater use of imprisonment in indictment cases and of fines in appealed cases, and partly by the increased use of probation in both classes of cases. Better supervision of convicted defendants brought about by the increased use of probation seems clearly socially desirable. The extent to which during this business depression fines can be more frequently imposed in appealed cases without flooding the jails with defendants unable to pay their fines is problematical.

Some dozen cases in 1931 and three or four in 1932 may indicate a desirable development in the use of probation. In these cases instead of following the usual practice when a defendant is convicted on two similar charges and sentenced to imprisonment on one, of continuing the second for sentence, or filing it, the defendant was placed on probation on the second charge. Where such probation begins on the expiration of the sentence on the first charge, or applies to a sentence overlapping that sentence, this makes it possible to lengthen the time that the defendant is subject to supervision without the uncertainty

involved in continuing the second charge for sentence. It also enables the court to precede probation by a term of imprisonment, a very desirable thing in some cases, but one which a court is usually unable to decree.

The returns show that the practice so much inveighed against in other states of accepting pleas of guilty of a lesser offense, is very rare in Maine, occurring in less than thirty cases in 1931 and in forty-five cases in 1932.

The absence of juvenile delinquency cases—no indictments and only one appeal in 1931 and five in 1932—does not indicate that youths are not being brought before the superior court, but rather that they are being prosecuted for the crime committed, instead of for juvenile delinquency. Particularly noticeable is the number of breaking and entering cases which resulted in sentences to the school for boys. (See special note to 1932 table on juvenile delinquency.)

Insanity continues to be a rare method of escaping conviction in Maine. Though in several pending cases in 1931 the defendant was placed under observation for insanity, in only one case in that year, a prosecution for vexing, irritating and tormenting, and in two cases in 1932, one for a sex offense and the other for breaking and entering, were defendants acquitted because of insanity. There was also a nol-pros because of insanity in a 1931 breaking and entering case.

Appealed cases represent a serious problem in Maine as in other states. In recent years the proportion of appealed cases to the total number of cases has increased until in 1932 half the cases were appeals. As to the proportion of convictions on appeal, during the last four years it has been practically the same, at an average of 60%. But if a defendant is convicted on appeal, it by no means follows that he will receive the same sentence that he received in the lower court. In 1932 data was available for 398 out of 580 such cases. From these it appears that in half of them, the sentence of the lower court was reduced on appeal, in one-tenth of them it was increased and in four-tenths affirmed. The chance of the sentence being affirmed was about the same whether the lower court's sentence was to a fine or to imprisonment; while on the other hand, only 3% of the jail sentences but 17% of the sentences to fines, were increased on appeal. The chance of the sentence being reduced rather than affirmed or increased differed greatly depending on the offense. Only a third of the sentences for violating motor vehicle laws were reduced as against nearly seven-tenths of those for larceny. Too few cases were covered to draw any conclusions as to varying practices in different counties.

If this information as to lower court sentences in appealed cases continues to be available in future years, it will be interesting to see how variations in the proportion of sentences affirmed and increased on appeal affect the number of appealed cases.

Source of figures

The figures in these tables are based on returns sent pursuant to law to the Attorney General by the several county attorneys of all

the sixteen counties of Maine. They cover the statistical years from November 2, 1930, to November 1, 1931, and from November 2, 1931, to November 1, 1932. The new form of the returns has made compilation easier and more accurate, and the probable error may be estimated as between 2 and 3%. This is chiefly due to some few returns which it has been necessary to calculate on the basis of probabilities. For example, certain appealed cases which did not state the nature of the sentence on conviction but merely that sentence of lower court had been affirmed or otherwise, have been included under prison or fine sentences depending upon which seemed the more likely to have been given and appealed. A good many of the 1932 returns from Androscoggin county were not completely filled out. In half of these cases there was no check to indicate the disposition. Such cases were treated as pending. In the remainder of the improperly checked cases, either the plea or the disposition was unchecked. Where the plea of guilty was checked but not the disposition, the case was treated as pending for sentence; where the disposition but not the plea was given, it was assumed that the defendant pleaded guilty.

Also, in 1931 particularly, there seems to have been some confusion in checking the forms with regard to cases placed on probation, especially where there was a suspended sentence or where probation was revoked and sentence later imposed. The statistics aim to treat all such cases as cases of probation, and also as having been completely disposed of at the time probation was ordered. However, the 1931 returns seem to have included some cases where probation was ordered during the year before, and only revoked and sentence imposed in 1931 or probation completed and case filed in 1931. The 1932 statistics are probably much more accurate in this respect due to a change in the form of the returns between the two years reported.

Classification of offenses

All offenses reported by the county attorneys are not listed separately. The plan of the United States Bureau of the Census—"Instructions for Compiling Criminal Statistics," pp. 5-8—has been followed, both as to order and grouping, except in the following particulars: Drunken driving has been put ahead of liquor law violations, inasmuch as it should be considered a more serious offense and some six instances appeared in each year where a defendant was charged with both; abortions are included in sex offenses; kidnapping with felonious assault. Also under felonious assault have been placed cases of resisting an officer or assaulting an officer, inasmuch as by sec. 21 of ch. 133 of the Revised Statutes, this may be considered a felony, although in the majority of states, resisting an officer is only a misdemeanor. All the appealed cases of felonious assault in 1931 and most of those in 1932 are cases of resisting an officer. Furthermore, game law violations have been listed separately for 1931 and 1932 instead of included with miscellaneous offenses as formerly, since they seem to constitute an important group.

All liquor law violations such as sale, manufacture, transportation, nuisance, search and seizure, etc., are recorded together. Illegal or unlawful possession, unless otherwise specified, is also included in this category of liquor offenses. Attempts 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, however, is listed under the offense it was made to commit.

In the miscellaneous group, in 1932, there were 17 appealed cases of gambling in Cumberland county and 17 for unlawful assembly in Lincoln county. (The former were in connection with a slot machine investigation later carried to the Law Court. The latter were in connection with a town meeting. C. F. R.)

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. Consequently, except as to liquor law violations, the statistics of 1931 and 1932, are very close to showing the number of persons before the Superior Court of Maine during the year. In prosecutions for violating the liquor laws, however, the name of the same offender appears frequently both on indictments and appeals and at different terms of court so that these figures probably represent from $\frac{1}{4}$ to $\frac{1}{3}$ as many more cases than there were actually individual offenders, particularly in Cumberland county.

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 be later revoked and sentence imposed or executed. No account is taken of the second disposition.

Defendants in cases on appeal who have defaulted bail are treated as pleading guilty. For instance, in 1932, there were 33 such cases which were usually filed or continued for sentence, or in which a warrant of arrest and commitment on the lower court sentence had been issued.

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, quashed, continued, 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. In the liquor offenses particularly, sentences to imprisonment usually carry fines with them as well.

(h) Not included in any other column.

CRIMINAL PROSECUTIONS IN THE SUPERIOR COURT OF MAINE FOR THE YEAR ENDING NOVEMBER 1, 1931

ALL COUNTIES—TOTAL INDICTMENTS AND APPEALS

	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	2238	607	79	111	1441	146	507	182	717	424
Murder	3	—	3	—	—	—	—	—	—	1
Manslaughter	18	5	4	2	7	—	—	2	7	5
Rape	19	5	1	2	11	—	3	—	10	6
Robbery	11	—	2	—	9	1	1	—	7	4
Felonious assault	33	5	2	4	22	—	5	3	18	6
Assault & battery	100	38	4	6	52	2	17	16	23	20
B. E. & L.	258	48	2	15	193	14	92	—	102	28
Forgery	96	17	—	3	76	4	33	—	42	26
Larceny	270	53	9	11	197	18	85	7	98	86
Sex offenses	140	41	3	10	86	6	34	4	52	29
Non-support	38	21	—	1	16	1	7	3	6	26
Drunken driving	172	34	9	9	120	11	21	54	43	29
Liquor offenses	627	163	23	39	402	68	150	6	217	94
Intoxication	98	19	—	1	78	5	15	14	45	10
Motor vehicles	87	48	5	—	34	5	9	16	4	14
Viol. game laws	78	22	8	2	46	5	3	37	3	5
Juv. delinquency	1	1	—	—	—	—	—	—	—	—
Miscellaneous	189	87	4	6	92	6	32	20	40	35

ALL OFFENSES—INDICTMENTS

Totals	1275	284	41	75	875	71	382	28	469	285
Androscoggin	218	47	4	5	162	1	111	4	51	87
Aroostook	156	29	6	9	112	14	44	6	57	31
Cumberland	222	65	6	20	131	15	33	5	98	53
Franklin	39	13	3	2	21	1	7	1	14	—
Hancock	55	8	2	3	42	1	18	1	25	14
Kennebec	73	7	3	1	62	16	16	6	25	14
Knox	27	4	—	—	23	2	3	—	18	8
Lincoln	47	28	4	4	11	2	4	1	8	5
Oxford	63	7	3	3	50	2	26	—	25	17
Penobscot	115	13	1	8	93	3	54	1	43	11
Piscataquis	30	4	1	4	21	—	7	—	18	1
Sagadahoc	17	2	3	3	9	—	4	—	8	2
Somerset	49	22	2	4	21	1	1	1	22	21
Waldo	33	1	1	4	27	2	7	—	22	8
Washington	19	3	—	—	16	1	6	1	8	2
York	112	31	2	5	74	10	41	1	27	11

ALL OFFENSES—APPEALS

	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	963	323	38	36	566	75	125	154	248	139
Androscoggin	142	18	4	1	119	—	59	17	44	44
Aroostook	106	32	1	5	68	16	10	25	22	3
Cumberland	151	81	5	7	58	8	11	9	37	38
Franklin	26	20	—	—	6	—	1	5	—	2
Hancock	28	7	2	2	17	3	6	5	5	1
Kennebec	75	24	1	3	47	8	3	10	29	—
Knox	34	11	3	1	19	5	5	8	2	2
Lincoln	14	7	—	1	6	—	5	—	2	—
Oxford	32	15	3	1	13	4	4	1	5	1
Penobscot	179	45	11	6	117	11	14	41	57	11
Piscataquis	11	1	1	—	9	2	—	6	1	1
Sagadahoc	9	4	—	1	4	—	1	1	3	1
Somerset	37	17	2	2	16	—	1	7	10	8
Waldo	13	3	2	1	7	—	—	1	7	5
Washington	32	17	1	—	14	—	—	11	3	4
York	74	21	2	5	46	18	5	7	21	18

MURDER—INDICTMENTS

Totals	3	—	3	—	—	—	—	—	—	1
Aroostook	2	—	2	—	—	—	—	—	—	—
Cumberland	—	—	—	—	—	—	—	—	—	1
Oxford	1	—	1	—	—	—	—	—	—	—

MANSLAUGHTER—INDICTMENTS

Totals	18	5	4	2	7	—	—	2	7	5
Androscoggin	—	—	—	—	—	—	—	—	—	3
Aroostook	—	—	—	—	—	—	—	—	—	1
Cumberland	3	—	1	1	1	—	—	—	2	1
Franklin	2	1	1	—	—	—	—	—	—	—
Kennebec	1	—	—	—	1	—	—	—	1	—
Oxford	1	—	—	—	1	—	—	—	1	—
Penobscot	3	1	—	—	2	—	—	1	1	—
Piscataquis	1	1	—	—	—	—	—	—	—	—
Sagadahoc	2	—	1	1	—	—	—	—	1	—
Washington	3	2	—	—	1	—	—	1	—	—
York	2	—	1	—	1	—	—	—	1	—

RAPE—INDICTMENTS

	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	19	5	1	2	11	—	3	—	10	6
Aroostook	5	1	—	1	3	—	1	—	3	1
Cumberland	6	3	—	—	3	—	1	—	2	—
Kennebec	2	—	1	—	1	—	—	—	1	1
Knox	1	—	—	—	1	—	—	—	1	1
Oxford	—	—	—	—	—	—	—	—	—	3
Penobscot	2	—	—	—	2	—	—	—	2	—
Piscataquis	1	—	—	1	—	—	—	—	1	—
York	2	1	—	—	1	—	1	—	—	—

ROBBERY—INDICTMENTS

Totals	11	—	2	—	9	1	1	—	7	4
Androscoggin	4	—	2	—	2	—	—	—	2	—
Cumberland	3	—	—	—	3	—	—	—	3	4
Franklin	1	—	—	—	1	—	—	—	1	—
Kennebec	1	—	—	—	1	—	—	—	1	—
Penobscot	1	—	—	—	1	—	1	—	—	—
York	1	—	—	—	1	1	—	—	—	—

FELONIOUS ASSAULT—INDICTMENTS

Totals	30	4	2	3	21	—	5	1	18	6
Androscoggin	2	1	—	—	1	—	—	—	1	—
Aroostook	4	—	1	1	2	—	—	—	3	—
Cumberland	8	1	—	1	6	—	1	—	6	3
Hancock	3	—	—	1	2	—	1	—	2	—
Kennebec	2	—	—	—	2	—	—	—	2	—
Knox	4	1	—	—	3	—	1	—	2	—
Penobscot	1	1	—	—	—	—	—	—	—	—
Sagadahoc	1	—	1	—	—	—	—	—	—	—
Somerset	2	—	—	—	2	—	—	—	2	2
Waldo	1	—	—	—	1	—	1	—	—	—
York	2	—	—	—	2	—	1	1	—	1

FELONIOUS ASSAULT—APPEALS

Totals	3	1	—	1	1	—	—	2	—	—
Cumberland	2	—	—	1	1	—	—	2	—	—
Kennebec	1	1	—	—	—	—	—	—	—	—

ASSAULT AND BATTERY—INDICTMENTS

	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	45	9	4	6	26	1	7	6	18	9
Androscoggin	4	—	—	—	4	—	2	—	2	3
Aroostook	7	3	—	2	2	—	—	1	3	—
Cumberland	5	1	1	1	2	—	1	1	1	1
Hancock	4	1	—	—	3	—	1	1	1	2
Kennebec	5	1	—	—	4	1	—	3	—	—
Lincoln	3	—	3	—	—	—	—	—	—	1
Oxford	1	—	—	—	1	—	—	—	1	—
Penobscot	2	—	—	1	1	—	—	—	2	—
Piscataquis	6	—	—	1	5	—	—	—	6	—
Waldo	1	—	—	1	—	—	—	—	1	1
York	7	3	—	—	4	—	3	—	1	1

ASSAULT AND BATTERY—APPEALS

Totals	55	29	—	—	26	1	10	10	5	11
Androscoggin	8	—	—	—	8	—	5	—	3	8
Cumberland	12	11	—	—	1	1	—	—	—	1
Franklin	—	—	—	—	—	—	—	—	—	1
Hancock	3	3	—	—	—	—	—	—	—	—
Kennebec	2	—	—	—	2	—	2	—	—	—
Knox	4	4	—	—	—	—	—	—	—	—
Lincoln	1	1	—	—	—	—	—	—	—	—
Oxford	3	1	—	—	2	—	2	—	—	—
Penobscot	9	4	—	—	5	—	—	5	—	1
Sagadahoc	1	—	—	—	1	—	1	—	—	—
Somerset	3	1	—	—	2	—	—	1	1	—
Washington	4	2	—	—	2	—	—	2	—	—
York	5	2	—	—	3	—	—	2	1	—

BREAKING AND ENTERING—INDICTMENTS

	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)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	258	48	2	15	193	14	92	—	102	28
Androscoggin	29	10	—	—	19	1	12	—	6	11
Aroostook	17	2	1	1	13	2	5	—	7	2
Cumberland	48	7	—	7	34	4	9	—	28	3
Franklin	8	3	—	—	5	—	3	—	2	—
Hancock	15	—	—	—	15	—	9	—	6	1
Kennebec	9	1	—	—	8	3	2	—	3	—
Knox	6	—	—	—	6	—	1	—	5	1
Lincoln	11	6	—	—	5	2	—	—	3	2
Oxford	12	—	—	—	12	—	7	—	5	—
Penobscot	33	5	—	1	27	—	21	—	7	1
Piscataquis	6	—	1	—	5	—	5	—	—	—
Sagadahoc	1	—	—	1	—	—	—	—	1	—
Somerset	13	8	—	1	4	—	1	—	4	2
Waldo	14	—	—	2	12	1	1	—	12	3
Washington	8	—	—	—	8	—	4	—	4	—
York	28	6	—	2	20	1	12	—	9	2

FORGERY—INDICTMENTS

Totals	95	16	—	3	76	4	33	—	42	26
Androscoggin	15	5	—	1	9	—	7	—	3	14
Aroostook	13	1	—	—	12	1	3	—	8	—
Cumberland	6	1	—	—	5	—	1	—	4	2
Franklin	4	1	—	—	3	—	1	—	2	—
Hancock	6	1	—	—	5	—	2	—	3	2
Kennebec	10	—	—	—	10	2	3	—	5	—
Knox	1	1	—	—	—	—	—	—	—	1
Lincoln	4	3	—	—	1	—	1	—	—	1
Oxford	10	—	—	—	10	—	5	—	5	1
Penobscot	11	—	—	1	10	—	5	—	6	—
Piscataquis	4	—	—	—	4	—	—	—	4	1
Sagadahoc	1	—	—	—	1	—	1	—	—	—
Somerset	3	3	—	—	—	—	—	—	—	3
Waldo	5	—	—	1	4	1	2	—	2	1
York	2	—	—	—	2	—	2	—	—	—

FORGERY—APPEALS

Total	1	1	—	—	—	—	—	—	—	—
Androscoggin	1	1	—	—	—	—	—	—	—	—

LARCENY—INDICTMENTS

	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	236	38	7	9	182	14	79	6	92	71
Androscoggin	32	11	1	—	20	—	11	2	7	17
Aroostook	29	2	1	—	26	5	11	1	9	7
Cumberland	39	8	—	1	30	—	8	3	20	18
Franklin	5	2	1	1	1	—	—	—	2	—
Hancock	11	1	—	2	8	—	3	—	7	3
Kennebec	18	1	1	1	15	7	5	—	4	7
Knox	6	—	—	—	6	—	—	—	6	—
Lincoln	4	—	1	—	3	—	1	—	2	—
Oxford	14	1	—	—	13	1	9	—	3	2
Penobscot	30	2	—	2	26	1	16	—	11	6
Piscataquis	2	—	—	1	1	—	—	—	2	—
Sagadahoc	4	—	—	—	4	—	2	—	2	—
Somerset	8	3	1	1	3	—	—	—	4	8
Waldo	8	—	—	—	8	—	3	—	5	2
Washington	1	—	—	—	1	—	—	—	1	—
York	25	7	1	—	17	—	10	—	7	1

LARCENY—APPEALS

Totals	34	15	2	2	15	4	6	1	6	15
Androscoggin	7	3	2	—	2	—	2	—	—	5
Aroostook	2	1	—	—	1	—	1	—	—	—
Cumberland	6	2	—	1	3	2	1	—	1	—
Franklin	3	3	—	—	—	—	—	—	—	—
Hancock	1	1	—	—	—	—	—	—	—	—
Knox	1	—	—	—	1	1	—	—	—	—
Oxford	1	—	—	—	1	—	—	1	—	—
Penobscot	6	2	—	—	4	1	2	—	1	5
Somerset	1	1	—	—	—	—	—	—	—	—
Waldo	1	—	—	—	1	—	—	—	1	1
Washington	3	1	—	—	2	—	—	—	2	2
York	2	1	—	1	—	—	—	—	1	1

SEX OFFENSES—INDICTMENTS

	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)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	129	34	3	10	82	6	33	2	51	27
Androscoggin	29	3	—	2	24	—	16	1	9	10
Aroostook	3	—	—	—	3	—	—	—	3	2
Cumberland	34	17	1	3	13	3	5	—	8	8
Franklin	7	2	—	—	5	—	3	—	2	—
Hancock	6	2	—	—	4	—	—	—	4	—
Kennebec	11	1	1	—	9	3	—	1	5	1
Knox	1	1	—	—	—	—	—	—	—	—
Lincoln	2	—	—	2	—	—	—	—	2	—
Oxford	3	—	—	—	3	—	2	—	1	—
Penobscot	12	2	—	2	8	—	3	—	7	2
Piscataquis	5	2	—	—	3	—	—	—	3	—
Sagadahoc	3	—	—	1	2	—	—	—	3	—
Somerset	4	1	—	—	3	—	—	—	3	2
Waldo	2	1	1	—	—	—	—	—	—	—
Washington	—	—	—	—	—	—	—	—	—	2
York	7	2	—	—	5	—	4	—	1	—

SEX OFFENSES—APPEALS

Totals	11	7	—	—	4	—	1	2	1	2
Androscoggin	3	1	—	—	2	—	—	2	—	2
Aroostook	3	3	—	—	—	—	—	—	—	—
Cumberland	3	1	—	—	2	—	1	—	1	—
Kennebec	2	2	—	—	—	—	—	—	—	—

NON-SUPPORT—INDICTMENTS

Totals	28	16	—	1	11	1	6	2	3	23
Androscoggin	5	4	—	—	1	—	1	—	—	12
Aroostook	4	1	—	—	3	—	1	—	2	—
Cumberland	1	—	—	—	1	—	1	—	—	—
Franklin	1	1	—	—	—	—	—	—	—	—
Hancock	1	1	—	—	—	—	—	—	—	1
Kennebec	4	2	—	—	2	—	—	2	—	1
Knox	1	—	—	—	1	—	1	—	—	4
Lincoln	2	1	—	1	—	—	1	—	—	1
Penobscot	2	1	—	—	1	—	1	—	—	1
Somerset	1	—	—	—	1	—	—	—	1	—
Waldo	—	—	—	—	—	—	—	—	—	1
Washington	1	1	—	—	—	—	—	—	—	—
York	5	4	—	—	1	1	—	—	—	2

NON-SUPPORT—APPEALS

	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	10	5	—	—	5	—	1	1	3	3
Aroostook	1	1	—	—	—	—	—	—	—	—
Franklin	1	—	—	—	1	—	—	1	—	—
Hancock	—	—	—	—	—	—	—	—	—	1
Kennebec	1	1	—	—	—	—	—	—	—	—
Oxford	1	1	—	—	—	—	—	—	—	—
Penobscot	1	1	—	—	—	—	—	—	—	—
Sagadahoc	1	1	—	—	—	—	—	—	—	—
Somerset	3	—	—	—	3	—	—	—	3	—
York	1	—	—	—	1	—	1	—	—	2

DRUNKEN DRIVING—INDICTMENTS

Totals	12	3	—	1	8	—	2	4	3	6
Androscoggin	4	1	—	1	2	—	2	1	—	4
Aroostook	2	—	—	—	2	—	—	2	—	1
Cumberland	3	1	—	—	2	—	—	1	1	1
Hancock	1	1	—	—	—	—	—	—	—	—
Oxford	1	—	—	—	1	—	—	—	1	—
Penobscot	1	—	—	—	1	—	—	—	1	—

DRUNKEN DRIVING—APPEALS

Totals	160	31	9	8	112	11	19	68	40	23
Androscoggin	28	3	1	—	24	—	9	8	7	9
Aroostook	21	3	—	—	18	2	2	11	3	—
Cumberland	13	4	1	2	6	—	—	1	7	6
Hancock	9	1	—	1	7	1	3	2	2	—
Kennebec	18	7	—	1	10	—	—	4	7	—
Knox	13	1	1	1	10	1	2	8	—	1
Lincoln	1	—	—	—	1	—	—	—	1	—
Oxford	1	—	—	—	1	—	—	—	1	—
Penobscot	30	7	2	1	20	4	2	11	4	1
Piscataquis	2	—	1	—	1	—	—	1	—	—
Somerset	6	1	—	1	4	—	1	2	2	—
Waldo	9	2	2	1	4	—	—	—	5	3
York	9	2	1	—	6	3	—	2	1	3

LIQUOR OFFENSES—INDICTMENTS

	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)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	252	55	7	18	172	24	90	1	75	46
Androscoggin	71	6	—	—	65	—	52	—	13	9
Aroostook	60	17	1	4	38	5	19	1	17	17
Cumberland	43	16	—	6	21	8	2	—	17	3
Franklin	8	2	1	1	4	1	—	—	4	—
Hancock	5	1	2	—	2	1	1	—	—	1
Kennebec	2	—	—	—	2	—	1	—	1	1
Knox	1	1	—	—	—	—	—	—	—	—
Lincoln	2	—	—	1	1	—	1	—	1	—
Oxford	10	2	1	2	5	1	2	—	4	9
Penobscot	12	—	1	—	11	1	5	—	5	1
Piscataquis	2	—	—	—	2	—	1	—	1	—
Sagadahoc	1	—	—	—	1	—	1	—	—	—
Somerset	10	6	1	1	2	—	—	—	3	2
Waldo	2	—	—	—	2	—	—	—	2	—
Washington	2	—	—	—	2	1	—	—	1	—
York	21	4	—	3	14	6	5	—	6	3

LIQUOR OFFENSES—APPEALS

Totals	375	108	16	21	230	44	60	5	142	48
Androscoggin	51	3	1	—	47	—	38	1	8	11
Aroostook	52	19	—	4	29	10	7	—	16	1
Cumberland	60	31	3	3	23	3	1	—	22	18
Franklin	12	11	—	—	1	—	1	—	—	1
Hancock	3	—	—	1	2	—	1	—	2	—
Kennebec	34	4	—	2	28	7	1	3	19	—
Knox	5	—	—	—	5	3	—	—	2	1
Lincoln	7	4	—	1	2	—	2	—	1	—
Oxford	17	6	2	1	8	4	1	—	4	1
Penobscot	67	8	6	4	49	4	6	—	43	2
Piscataquis	3	—	—	—	3	2	—	—	1	—
Sagadahoc	3	1	—	1	1	—	—	—	2	1
Somerset	15	9	2	1	3	—	—	—	4	8
Waldo	1	—	—	—	1	—	—	—	1	1
Washington	7	5	1	—	1	—	—	—	1	—
York	38	7	1	3	27	11	2	1	16	3

INTOXICATION—INDICTMENTS

Totals	3	1	—	—	2	—	—	—	2	1
Androscoggin	2	—	—	—	2	—	—	—	2	1
Kennebec	1	1	—	—	—	—	—	—	—	—

INTOXICATION—APPEALS

	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	95	18	—	1	76	5	15	14	43	9
Androscoggin	29	—	—	—	29	—	2	1	26	2
Aroostook	6	1	—	1	4	1	—	2	2	1
Cumberland	17	6	—	—	11	1	3	2	5	1
Franklin	1	1	—	—	—	—	—	—	—	—
Hancock	4	—	—	—	4	2	2	—	—	—
Kennebec	2	—	—	—	2	—	—	—	2	—
Knox	5	2	—	—	3	—	3	—	—	—
Lincoln	1	—	—	—	1	—	1	—	—	—
Oxford	1	—	—	—	1	—	1	—	—	—
Penobscot	16	1	—	—	15	1	3	5	6	2
Piscataquis	—	—	—	—	—	—	—	—	—	1
Sagadahoc	1	—	—	—	1	—	—	—	1	—
Somerset	4	1	—	—	3	—	—	3	—	—
Waldo	2	1	—	—	1	—	—	1	—	—
Washington	5	5	—	—	—	—	—	—	—	—
York	1	—	—	—	1	—	—	—	1	2

MOTOR VEHICLE OFFENSES—INDICTMENTS

Totals	8	2	2	—	4	—	2	1	1	2
Androscoggin	3	—	1	—	2	—	1	—	1	1
Aroostook	1	—	—	—	1	—	—	1	—	—
Oxford	3	1	1	—	1	—	1	—	—	—
Sagadahoc	1	1	—	—	—	—	—	—	—	1

MOTOR VEHICLE OFFENSES—APPEALS

Totals	79	46	3	—	30	5	7	15	3	12
Androscoggin	9	6	—	—	3	—	1	2	—	2
Aroostook	6	—	—	—	6	2	—	3	1	—
Cumberland	20	14	1	—	5	—	3	1	1	8
Franklin	2	2	—	—	—	—	—	—	—	—
Hancock	2	1	—	—	1	—	—	—	1	—
Kennebec	9	7	1	—	1	1	—	—	—	—
Lincoln	1	—	—	—	1	—	1	—	—	—
Oxford	2	2	—	—	—	—	—	—	—	—
Penobscot	13	5	1	—	7	—	—	7	—	—
Piscataquis	1	—	—	—	1	—	—	1	—	—
Sagadahoc	2	2	—	—	—	—	—	—	—	—
Somerset	3	2	—	—	1	—	—	1	—	—
Washington	1	1	—	—	—	—	—	—	—	—
York	8	4	—	—	4	2	2	—	—	2

VIOLATIONS GAME LAWS—INDICTMENTS

	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	3	1	—	—	2	1	1	—	—	—
Androscoggin	1	—	—	—	1	—	1	—	—	—
Aroostook	2	1	—	—	1	1	—	—	—	—

VIOLATIONS GAME LAWS—APPEALS

Totals	75	21	8	2	44	4	2	37	3	5
Androscoggin	1	—	—	1	—	—	—	1	—	2
Aroostook	11	2	1	—	8	1	—	7	—	1
Cumberland	5	2	—	—	3	1	1	1	—	1
Franklin	4	2	—	—	2	—	—	2	—	—
Hancock	6	1	2	—	3	—	—	3	—	—
Kennebec	1	—	—	—	1	—	—	1	—	—
Knox	5	3	2	—	—	—	—	—	—	—
Oxford	5	4	1	—	—	—	—	—	—	—
Penobscot	23	5	2	1	15	1	1	12	2	—
Piscataquis	4	—	—	—	4	—	—	4	—	—
Washington	8	2	—	—	6	—	—	6	—	1
York	2	—	—	—	2	1	—	—	1	—

JUVENILE DELINQUENCY—APPEALS

Totals	1	1	—	—	—	—	—	—	—	—
Piscataquis	1	1	—	—	—	—	—	—	—	—

MISCELLANEOUS OFFENSES—INDICTMENTS

	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	125	47	4	5	69	5	28	3	38	24
Androscoggin	17	6	—	1	10	—	6	—	5	2
Aroostook	7	1	—	—	6	—	4	—	2	—
Cumberland	23	10	3	—	10	—	4	—	6	8
Franklin	3	1	—	—	2	—	—	1	1	—
Hancock	3	—	—	—	3	—	1	—	2	4
Kennebec	7	—	—	—	7	—	5	—	2	3
Knox	6	—	—	—	6	2	—	—	4	1
Lincoln	19	18	—	—	1	—	—	1	—	—
Oxford	7	3	—	1	3	—	—	—	4	2
Penobscot	5	1	—	1	3	1	2	—	1	—
Piscataquis	3	1	—	1	1	—	1	—	1	—
Sagadahoc	3	1	1	—	1	—	—	—	1	1
Somerset	8	1	—	1	6	1	—	1	5	2
Washington	4	—	—	—	4	—	2	—	2	—
York	10	4	—	—	6	1	3	—	2	1

MISCELLANEOUS OFFENSES—APPEALS

Totals	64	40	—	1	23	1	4	17	2	11
Androscoggin	5	1	—	—	4	—	2	2	—	3
Aroostook	4	2	—	—	2	—	—	2	—	—
Cumberland	13	10	—	—	3	—	1	2	—	2
Franklin	3	1	—	—	2	—	—	2	—	—
Kennebec	5	2	—	—	3	—	—	2	1	—
Knox	1	1	—	—	—	—	—	—	—	—
Lincoln	3	2	—	—	1	—	1	—	—	—
Oxford	1	1	—	—	—	—	—	—	—	—
Penobscot	14	12	—	—	2	—	—	1	1	—
Sagadahoc	1	—	—	—	1	—	—	1	—	—
Somerset	2	2	—	—	—	—	—	—	—	—
Washington	4	1	—	—	3	—	—	3	—	1
York	8	5	—	1	2	1	—	2	—	5

CRIMINAL PROSECUTIONS IN THE SUPERIOR COURT OF MAINE FOR THE YEAR ENDING NOVEMBER 1, 1932

ALL COUNTIES—TOTAL INDICTMENTS AND APPEALS

	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	1986	605	95	162	1124	244	308	120	614	393
Murder	7	1	2	3	1	—	—	—	4	2
Manslaughter	10	—	3	4	3	1	1	—	5	2
Rape	15	5	1	1	8	1	1	—	7	8
Robbery	30	3	1	20	6	2	1	—	23	—
Felonious assault	24	4	1	5	14	2	2	1	14	5
Assault & battery	105	40	5	12	48	5	8	14	33	25
B. E. & L.	231	31	10	12	178	17	69	1	103	37
Forgery	62	5	1	4	52	5	19	—	32	16
Larceny	252	77	15	10	150	29	55	4	72	54
Sex offenses	112	38	7	9	58	28	12	1	26	13
Non-support	28	17	—	1	10	5	4	—	2	18
Drunken driving	135	35	8	13	79	15	14	24	39	36
Liquor offenses	564	160	24	52	328	90	84	1	205	91
Intoxication	82	35	—	2	45	8	11	11	17	29
Motor vehicles	95	52	5	7	31	7	4	20	7	14
Game law viol.	81	38	4	4	35	12	5	22	—	8
Juv. delinquency	5	2	—	—	3	—	—	—	3	—
Miscellaneous	148	62	8	3	75	17	18	21	22	35

ALL OFFENSES—INDICTMENTS

Totals	995	235	54	105	601	116	189	8	393	185
Androscoggin	79	10	1	4	64	13	31	—	24	69
Aroostook	213	49	13	19	132	31	18	2	100	1
Cumberland	181	58	5	23	95	18	37	—	63	27
Franklin	28	5	3	2	18	3	4	1	12	2
Hancock	31	6	2	3	20	—	14	1	8	12
Kennebec	97	23	9	11	54	11	25	2	27	—
Knox	21	7	1	6	7	—	4	—	9	3
Lincoln	33	17	1	2	13	—	11	—	4	11
Oxford	47	13	4	4	26	11	—	2	17	9
Penobscot	93	8	6	16	63	16	15	—	48	20
Piscataquis	9	—	—	1	8	—	1	—	8	2
Sagadahoc	13	1	—	1	11	—	6	—	6	4
Somerset	45	7	4	4	30	9	6	—	19	11
Waldo	10	3	2	1	4	1	1	—	3	3
Washington	30	7	—	3	20	—	6	—	17	5
York	65	21	3	5	36	3	10	—	28	6

ALL OFFENSES—APPEALS

	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)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	991	370	41	57	523	128	119	112	221	208
Androscoggin	73	18	7	—	48	24	6	—	18	94
Aroostook	117	39	4	4	70	17	9	16	32	—
Cumberland	223	100	5	7	111	13	51	26	28	40
Franklin	28	15	—	—	13	1	8	2	2	9
Hancock	14	2	3	3	6	—	4	1	4	6
Kennebec	60	30	—	9	21	5	1	7	17	—
Knox	11	1	—	2	8	4	—	1	5	—
Lincoln	20	7	3	2	8	—	2	4	4	3
Oxford	54	28	—	2	24	9	2	5	10	—
Penobscot	141	42	10	12	77	26	8	17	38	21
Piscataquis	21	3	1	2	15	1	5	2	9	1
Sagadahoc	17	4	—	4	9	5	3	5	—	4
Somerset	54	26	3	1	24	3	1	4	17	8
Waldo	19	3	—	2	14	—	6	1	9	2
Washington	39	25	—	1	13	5	1	6	2	2
York	100	27	5	6	62	15	12	15	26	18

MURDER—INDICTMENTS

Totals	7	1	2	3	1	—	—	—	4	2
Cumberland	1	—	1	—	—	—	—	—	—	—
Kennebec	1	—	1	—	—	—	—	—	—	—
Knox	1	1	—	—	—	—	—	—	—	—
Lincoln	1	—	—	1	—	—	—	—	1	—
Penobscot	1	—	—	1	—	—	—	—	1	—
Piscataquis	1	—	—	—	1	—	—	—	1	—
Washington	—	—	—	—	—	—	—	—	—	2
York	1	—	—	1	—	—	—	—	1	—

MANSLAUGHTER—INDICTMENTS

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

RAPE—INDICTMENTS

	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)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	15	5	1	1	8	1	1	—	7	8
Androscoggin	1	1	—	—	—	—	—	—	—	4
Aroostook	3	1	—	—	2	—	—	—	2	—
Cumberland	1	—	—	—	1	—	1	—	—	—
Lincoln	—	—	—	—	—	—	—	—	—	1
Hancock	—	—	—	—	—	—	—	—	—	1
Knox	1	1	—	—	—	—	—	—	—	1
Oxford	3	—	—	—	3	1	—	—	2	—
Penobscot	3	—	1	—	2	—	—	—	2	1
Sagadahoc	1	—	—	1	—	—	—	—	1	—
Waldo	1	1	—	—	—	—	—	—	—	—
York	1	1	—	—	—	—	—	—	—	—

ROBBERY—INDICTMENTS

Totals	30	3	1	20	6	2	1	—	23	—
Androscoggin	3	—	—	3	—	—	—	—	3	—
Aroostook	2	—	—	2	—	—	—	—	2	—
Cumberland	21	3	1	11	6	2	1	—	14	—
Knox	1	—	—	1	—	—	—	—	1	—
Penobscot	3	—	—	3	—	—	—	—	3	—

FELONIOUS ASSAULT—INDICTMENTS

Totals	21	3	1	5	12	1	1	1	14	5
Androscoggin	3	—	—	1	2	1	—	—	2	1
Aroostook	2	—	—	—	2	—	—	—	2	—
Cumberland	1	1	—	—	—	—	—	—	—	2
Hancock	1	—	—	1	—	—	—	—	1	—
Kennebec	2	1	—	—	1	—	—	1	—	—
Knox	2	—	—	1	1	—	—	—	2	—
Lincoln	1	—	—	—	1	—	—	—	1	—
Oxford	1	—	—	1	—	—	—	—	1	—
Penobscot	3	—	—	—	3	—	1	—	2	—
Sagadahoc	—	—	—	—	—	—	—	—	—	1
Somerset	2	1	1	—	—	—	—	—	—	1
Waldo	1	—	—	1	—	—	—	—	1	—
York	2	—	—	—	2	—	—	—	2	—

FELONIOUS ASSAULT—APPEALS

	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	3	1	—	—	2	1	1	—	—	—
Sagadahoc	1	—	—	—	1	—	1	—	—	—
Washington	1	1	—	—	—	—	—	—	—	—
York	1	—	—	—	1	1	—	—	—	—

ASSAULT AND BATTERY—INDICTMENTS

Totals	42	5	3	11	23	1	5	2	26	5
Androscoggin	—	—	—	—	—	—	—	—	—	1
Aroostook	6	1	1	—	4	—	—	—	4	—
Cumberland	10	2	—	3	5	—	3	—	5	—
Franklin	2	—	2	—	—	—	—	—	—	—
Hancock	1	—	—	1	—	—	—	1	—	1
Kennebec	3	—	—	—	3	1	—	1	1	—
Knox	4	—	—	3	1	—	—	—	4	—
Lincoln	—	—	—	—	—	—	—	—	—	1
Penobscot	3	1	—	1	1	—	—	—	2	2
Piscataquis	1	—	—	—	1	—	—	—	1	—
Sagadahoc	1	—	—	—	1	—	1	—	—	—
Somerset	3	—	—	—	3	—	—	—	3	—
Washington	3	—	—	2	1	—	—	—	3	—
York	5	1	—	1	3	—	1	—	3	—

ASSAULT AND BATTERY—APPEALS

Totals	63	35	2	1	25	4	3	12	7	20
Androscoggin	6	4	1	—	1	1	—	—	—	11
Aroostook	4	1	—	—	3	—	—	2	1	—
Cumberland	7	6	—	—	1	—	1	—	—	1
Franklin	1	1	—	—	—	—	—	—	—	—
Hancock	—	—	—	—	—	—	—	—	—	1
Kennebec	6	4	—	1	1	1	—	—	1	—
Lincoln	3	1	—	—	2	—	—	2	—	—
Oxford	7	5	—	—	2	—	—	2	—	—
Penobscot	6	1	—	—	5	2	—	1	2	2
Piscataquis	1	—	—	—	1	—	—	1	—	—
Somerset	7	5	—	—	2	—	—	1	1	2
Washington	6	4	—	—	2	—	1	—	1	—
York	9	3	1	—	5	—	1	3	1	3

BREAKING AND ENTERING, ETC.—INDICTMENTS

	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	231	31	10	12	178	17	69	1	103	37
Androscoggin	33	—	—	—	33	—	22	—	11	18
Aroostook	24	8	3	1	12	—	—	—	13	—
Cumberland	45	4	1	4	36	6	13	—	21	4
Franklin	8	—	—	—	8	2	—	—	6	—
Hancock	8	1	—	—	7	—	4	—	3	2
Kennebec	19	3	3	—	13	2	8	—	3	—
Knox	1	1	—	—	—	—	—	—	—	—
Lincoln	8	5	—	1	2	—	1	—	2	3
Oxford	5	1	—	2	2	3	—	1	—	1
Penobscot	25	1	1	—	23	1	7	—	15	1
Piscataquis	2	—	—	—	2	—	—	—	2	—
Sagadahoc	6	—	—	—	6	—	3	—	3	3
Somerset	7	—	1	3	3	2	2	—	2	3
Waldo	2	1	—	—	1	—	—	—	1	—
Washington	17	1	—	1	15	—	5	—	11	2
York	21	5	1	—	15	1	4	—	10	—

FORGERY—INDICTMENTS

Totals	62	5	1	4	52	5	19	—	32	16
Androscoggin	7	1	—	—	6	1	1	—	4	9
Aroostook	13	2	—	1	10	2	1	—	8	—
Cumberland	12	—	1	—	11	1	4	—	6	1
Franklin	1	—	—	1	—	—	1	—	—	—
Hancock	1	—	—	—	1	—	—	—	1	1
Kennebec	6	—	—	1	5	1	3	—	2	—
Knox	4	—	—	1	3	—	2	—	2	—
Lincoln	1	—	—	—	1	—	1	—	—	1
Oxford	2	2	—	—	—	—	—	—	—	—
Penobscot	4	—	—	—	4	—	—	—	4	1
Piscataquis	3	—	—	—	3	—	1	—	2	—
Sagadahoc	1	—	—	—	1	—	1	—	—	—
Somerset	3	—	—	—	3	—	2	—	1	3
Waldo	1	—	—	—	1	—	1	—	—	—
York	3	—	—	—	3	—	1	—	2	—

LARCENY—INDICTMENTS

	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)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	192	51	12	7	122	19	44	2	64	44
Androscoggin	13	4	—	—	9	3	4	—	2	17
Aroostook	35	9	4	1	21	2	2	1	17	—
Cumberland	37	15	1	1	20	3	8	—	10	6
Franklin	8	2	—	—	6	—	2	—	4	2
Hancock	12	1	1	1	9	—	9	—	1	1
Kennebec	24	4	1	4	15	3	8	—	8	—
Knox	2	—	—	—	2	—	2	—	—	1
Lincoln	4	—	1	—	3	—	3	—	—	1
Oxford	9	2	—	—	7	—	—	1	6	4
Penobscot	17	2	—	—	15	3	4	—	8	5
Piscataquis	—	—	—	—	—	—	—	—	—	1
Sagadahoc	1	—	—	—	1	—	—	—	1	—
Somerset	10	1	1	—	8	5	—	—	3	1
Waldo	3	1	2	—	—	—	—	—	—	2
Washington	4	3	—	—	1	—	—	—	1	—
York	13	7	1	—	5	—	2	—	3	3

LARCENY—APPEALS

Totals	60	26	3	3	28	10	11	2	8	10
Androscoggin	2	1	—	—	1	—	—	—	1	4
Aroostook	2	2	—	—	—	—	—	—	—	—
Cumberland	19	9	1	—	9	2	4	—	3	3
Franklin	2	—	—	—	2	—	2	—	—	—
Kennebec	4	3	—	—	1	1	—	—	—	—
Lincoln	—	—	—	—	—	—	—	—	—	1
Oxford	1	—	—	—	1	—	1	—	—	—
Penobscot	20	8	1	2	9	6	4	1	—	1
Piscataquis	1	—	—	—	1	—	—	—	1	—
Sagadahoc	1	1	—	—	—	—	—	—	—	—
Somerset	2	1	—	—	1	—	—	1	—	—
Waldo	1	—	—	—	1	—	—	—	1	—
Washington	1	—	—	—	1	—	—	—	1	—
York	4	1	1	1	1	1	—	—	1	1

SEX OFFENSES—INDICTMENTS

	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	100	32	7	9	52	27	11	—	23	13
Androscoggin	9	2	—	—	7	5	2	—	—	4
Aroostook	15	3	1	2	9	7	—	—	4	—
Cumberland	19	8	—	—	11	4	5	—	2	5
Franklin	2	2	—	—	—	—	—	—	—	—
Hancock	2	2	—	—	—	—	—	—	—	—
Kennebec	14	4	3	1	6	3	—	—	4	—
Oxford	2	2	—	—	—	—	—	—	—	—
Penobscot	23	3	3	5	12	7	2	—	8	1
Piscataquis	1	—	—	1	—	—	—	—	1	1
Somerset	4	2	—	—	2	—	1	—	1	—
Waldo	2	—	—	—	2	1	—	—	1	—
Washington	2	2	—	—	—	—	—	—	—	—
York	5	2	—	—	3	—	1	—	2	2

SEX OFFENSES—APPEALS

Totals	12	6	—	—	6	1	1	1	3	—
Androscoggin	3	—	—	—	3	—	—	—	3	—
Cumberland	4	3	—	—	1	—	—	1	—	—
Franklin	1	1	—	—	—	—	—	—	—	—
Kennebec	1	—	—	—	1	—	1	—	—	—
Oxford	1	—	—	—	1	1	—	—	—	—
Somerset	1	1	—	—	—	—	—	—	—	—
Penobscot	1	1	—	—	—	—	—	—	—	—

NON-SUPPORT—INDICTMENTS

Totals	15	9	—	1	5	3	1	—	2	13
Androscoggin	3	1	—	—	2	1	1	—	—	8
Aroostook	2	1	—	1	—	1	—	—	—	—
Hancock	1	1	—	—	—	—	—	—	—	1
Kennebec	1	1	—	—	—	—	—	—	—	—
Knox	3	3	—	—	—	—	—	—	—	1
Lincoln	1	1	—	—	—	—	—	—	—	1
Penobscot	1	1	—	—	—	—	—	—	—	1
Waldo	—	—	—	—	—	—	—	—	—	1
York	3	—	—	—	3	1	—	—	2	—

NON-SUPPORT—APPEALS

	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	13	8	—	—	5	2	3	—	—	5
Androscoggin	—	—	—	—	—	—	—	—	—	1
Cumberland	4	2	—	—	2	—	2	—	—	2
Franklin	—	—	—	—	—	—	—	—	—	1
Penobscot	3	1	—	—	2	2	—	—	—	—
Washington	1	1	—	—	—	—	—	—	—	—
York	5	4	—	—	1	—	1	—	—	1

DRUNKEN DRIVING—INDICTMENTS

Totals	8	3	—	—	5	3	—	—	2	2
Aroostook	5	1	—	—	4	2	—	—	2	—
Cumberland	1	1	—	—	—	—	—	—	—	1
Franklin	1	1	—	—	—	—	—	—	—	—
Hancock	—	—	—	—	—	—	—	—	—	1
Oxford	1	—	—	—	1	1	—	—	—	—

DRUNKEN DRIVING—APPEALS

Totals	127	32	8	13	74	12	14	24	37	34
Androscoggin	15	3	1	—	11	5	—	—	6	14
Aroostook	17	1	1	2	13	2	2	3	8	—
Cumberland	26	11	1	2	12	—	7	5	2	4
Franklin	3	1	—	—	2	—	1	1	—	—
Hancock	3	—	1	1	1	—	—	1	1	2
Kennebec	10	3	—	2	5	1	—	4	2	—
Knox	2	1	—	1	—	—	—	—	1	—
Lincoln	6	3	—	1	2	—	—	1	2	—
Oxford	2	—	—	—	2	—	—	2	—	—
Penobscot	21	5	2	1	13	3	2	3	6	9
Piscataquis	2	—	—	—	2	—	1	—	1	—
Sagadahoc	1	—	—	1	—	1	—	—	—	—
Somerset	6	1	2	—	3	—	—	—	3	2
Waldo	5	—	—	1	4	—	1	1	3	—
Washington	2	—	—	—	2	—	—	2	—	—
York	6	3	—	1	2	—	—	1	2	3

LIQUOR OFFENSES—INDICTMENTS

	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	177	48	6	22	101	31	22	—	70	18
Androscoggin	—	—	—	—	—	—	—	—	—	1
Aroostook	95	*22	2	7	64	15	14	—	42	—
Cumberland	17	12	—	1	4	2	1	—	2	3
Franklin	3	—	—	—	3	1	1	—	1	—
Hancock	—	—	—	—	—	—	—	—	—	2
Kennebec	17	4	1	4	8	1	4	—	7	—
Lincoln	—	—	—	—	—	—	—	—	—	1
Oxford	20	6	2	1	11	5	—	—	7	4
Penobscot	6	—	—	6	—	4	—	—	2	5
Sagadahoc	2	—	—	—	2	—	1	—	1	—
Somerset	8	—	1	1	6	2	—	—	5	2
Washington	2	1	—	—	1	—	—	—	1	—
York	7	3	—	2	2	1	1	—	2	—

LIQUOR OFFENSES—APPEALS

Totals	387	112	18	30	227	59	62	1	135	73
Androscoggin	33	4	2	—	27	18	5	—	4	32
Aroostook	57	22	2	1	32	6	7	—	20	—
Cumberland	79	28	2	5	44	9	21	—	19	15
Franklin	10	3	—	—	7	1	4	—	2	6
Hancock	7	1	1	2	3	—	4	—	1	3
Kennebec	18	5	—	4	9	1	—	—	12	—
Knox	8	—	—	1	7	4	—	—	4	—
Lincoln	6	2	1	1	2	—	1	—	2	1
Oxford	26	14	—	1	11	5	1	—	6	—
Penobscot	49	10	6	8	25	5	2	—	26	6
Piscataquis	14	2	1	2	9	1	3	1	6	—
Sagadahoc	3	1	—	—	2	2	—	—	—	3
Somerset	24	7	1	1	15	3	1	—	12	1
Waldo	9	3	—	—	6	—	4	—	2	1
Washington	2	2	—	—	—	—	—	—	—	—
York	42	8	2	4	28	4	9	—	19	5

INTOXICATION—APPEALS

	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	82	35	—	2	45	8	11	11	17	29
Androscoggin	3	—	—	—	3	—	—	—	3	22
Aroostook	13	3	—	—	10	5	—	3	2	—
Cumberland	29	19	—	—	10	—	7	—	3	3
Hancock	1	—	—	—	1	—	—	—	1	—
Kennebec	3	1	—	1	1	—	—	1	1	—
Oxford	2	1	—	1	—	—	—	—	1	—
Penobscot	9	1	—	—	8	1	—	6	1	2
Piscataquis	1	—	—	—	1	—	1	—	—	—
Sagadahoc	1	—	—	—	1	—	1	—	—	1
Waldo	3	—	—	—	3	—	1	—	2	—
Washington	10	8	—	—	2	2	—	—	—	—
York	7	2	—	—	5	—	1	1	3	1

MOTOR VEHICLE OFFENSES—INDICTMENTS

Totals	4	1	—	2	1	1	—	—	2	2
Aroostook	3	—	—	2	1	1	—	—	2	—
Cumberland	—	—	—	—	—	—	—	—	—	1
Sagadahoc	1	1	—	—	—	—	—	—	—	—
York	—	—	—	—	—	—	—	—	—	1

MOTOR VEHICLE OFFENSES—APPEALS

Totals	91	51	5	5	30	6	4	20	5	12
Androscoggin	9	6	2	—	1	—	—	—	1	1
Aroostook	4	2	—	1	1	1	—	1	—	—
Cumberland	29	18	1	—	10	—	4	6	—	7
Franklin	1	—	—	—	1	—	—	1	—	—
Hancock	1	1	—	—	—	—	—	—	—	—
Kennebec	9	7	—	1	1	—	—	1	1	—
Lincoln	3	—	2	—	1	—	—	1	—	—
Oxford	3	3	—	—	—	—	—	—	—	—
Penobscot	11	6	—	1	4	3	—	1	1	1
Piscataquis	1	—	—	—	1	—	—	—	1	—
Sagadahoc	6	2	—	1	3	—	—	4	—	—
Somerset	2	2	—	—	—	—	—	—	—	—
Waldo	1	—	—	1	—	—	—	—	1	1
Washington	2	2	—	—	—	—	—	—	—	—
York	9	2	—	—	7	2	—	5	—	2

GAME LAW VIOLATIONS—INDICTMENTS

	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.....	4	1	1	2	—	—	—	2	—	—
Aroostook.....	2	—	1	1	—	—	—	1	—	—
Franklin.....	1	—	—	1	—	—	—	1	—	—
Somerset.....	1	1	—	—	—	—	—	—	—	—

GAME LAW VIOLATIONS—APPEALS

Totals.....	77	37	3	2	35	12	5	20	—	8
Androscoggin...	2	—	1	—	1	—	1	—	—	1
Aroostook.....	11	4	1	—	6	1	—	5	—	—
Cumberland....	7	1	—	—	6	1	2	3	—	—
Franklin.....	8	8	—	—	—	—	—	—	—	2
Hancock.....	1	—	1	—	—	—	—	—	—	—
Kennebec.....	5	5	—	—	—	—	—	—	—	—
Knox.....	1	—	—	—	1	—	—	1	—	—
Lincoln.....	1	—	—	—	1	—	1	—	—	—
Oxford.....	4	1	—	—	3	2	—	1	—	—
Penobscot.....	12	7	—	—	5	1	—	4	—	—
Piscataquis.....	—	—	—	—	—	—	—	—	—	1
Sagadahoc.....	3	—	—	1	2	1	1	1	—	—
Somerset.....	3	3	—	—	—	—	—	—	—	1
Washington.....	14	7	—	1	6	3	—	4	—	2
York.....	5	1	—	—	4	3	—	1	—	1

JUVENILE DELINQUENCY—APPEALS*

Totals.....	5	2	—	—	3	—	—	—	3	—
Cumberland....	1	1	—	—	—	—	—	—	—	—
Oxford.....	4	1	—	—	3	—	—	—	3	—

*In Penobscot county there were also 1 Breaking and Entering case, 2 Larceny appeals and 1 Miscellaneous which were continued for sentence or filed after trial because defendants were juvenile delinquents; likewise 2 Larceny appeals were given probation for the same reason.

MISCELLANEOUS—INDICTMENTS

	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	77	37	6	2	32	4	14	—	16	18
Androscoggin	5	1	—	—	4	2	1	—	1	6
Aroostook	5	1	1	—	3	—	1	—	2	1
Cumberland	15	12	—	2	1	—	1	—	2	4
Franklin	2	—	1	—	1	—	—	—	1	—
Hancock	5	1	1	—	3	—	1	—	2	2
Kennebec	9	6	—	—	3	—	2	—	1	—
Knox	1	1	—	—	—	—	—	—	—	—
Lincoln	17	11	—	—	6	—	6	—	—	2
Oxford	4	—	2	—	2	1	—	—	1	—
Penobscot	4	—	1	—	3	1	1	—	1	1
Piscataquis	1	—	—	—	1	—	—	—	1	—
Somerset	5	2	—	—	3	—	—	—	3	1
Washington	2	—	—	—	2	—	1	—	1	1
York	2	2	—	—	—	—	—	—	—	—

MISCELLANEOUS—APPEALS

Totals	71	25	2	1	43	13	4	21	6	17
Androscoggin	—	—	—	—	—	—	—	—	—	8
Aroostook	9	4	—	—	5	2	—	2	1	—
Cumberland	18	2	—	—	16	1	3	11	1	5
Franklin	2	1	—	—	1	—	1	—	—	—
Hancock	1	—	—	—	1	—	—	—	1	—
Kennebec	4	2	—	—	2	1	—	1	—	—
Lincoln	1	1	—	—	—	—	—	—	—	1
Oxford	4	3	—	—	1	1	—	—	—	—
Penobscot	9	2	1	—	6	3	—	1	2	—
Piscataquis	1	1	—	—	—	—	—	—	—	—
Sagadahoc	1	—	—	1	—	1	—	—	—	—
Somerset	9	6	—	—	3	—	—	2	1	2
York	12	3	1	—	8	4	—	4	—	1

FINANCIAL STATISTICS YEAR ENDING NOVEMBER 1, 1931

COUNTIES	Cost of prosecution in Superior Court	Paid for prisoners in jail	Paid grand jurors	Paid traverse jurors, criminal cases*	Fines, etc. imposed in Superior Court	Fines, etc. collected in Superior Court	Fines, etc. collected in all courts
Androscoggin	$7,801.40	$18,887.76	$2,295.52	$10,941.00	$6,442.94	$1,084.20	$9,312.96
Aroostook	11,246.70	3,953.40	2,237.72	9,794.83	10,978.22	8,465.64	17,412.00
Cumberland	35,107.68	37,726.26	2,740.08	4,653.28	11,489.82	7,869.84	27,096.66
Franklin	3,331.09	8,304.62	606.64	3,953.20	1,398.87	823.15	3,305.53
Hancock	1,970.40	4,660.15	1,766.08	4,607.50	2,414.00	441.12	6,210.35
Kennebec	5,193.54	10,137.44	520.08	10,636.64	7,022.27	2,687.15	12,621.69
Knox	1,126.47	2,681.79	810.16	†500.00	1,576.32	1,351.32	Missing
Lincoln	1,453.39	1,049.70	580.04	965.20	1,028.40	402.52	691.60
Oxford	8,852.48	4,282.75	1,192.06	6,040.42	2,574.99	1,853.47	10,260.11
Penobscot	16,521.66	9,044.10	1,955.20	16,652.26	12,822.21	9,355.05	30,949.57
Piscataquis	1,536.32	3,817.37	517.28	3,007.48	1,325.80	355.99	4,077.61
Sagadahoc	1,244.59	3,386.13	326.98	2,682.20	2,291.64	174.43	1,605.43
Somerset	5,129.08	3,626.28	984.36	6,519.24	3,044.84	1,397.38	8,222.74
Waldo	1,782.77	2,479.54	523.12	2,594.72	721.36	338.46	1,126.04
Washington	2,189.70	2,166.00	888.14	360.00	1,049.93	950.41	3,289.15
York	4,427.92	9,335.30	1,693.60	7,737.60	10,498.71	2,159.30	13,386.69
Totals	$108,915.19	$25,538.59	$19,637.06	$91,645.57	$76,680.32	$39,709.43	$149,568.13

*Includes civil jurors in most counties.
†Estimate.

FINANCIAL STATISTICS YEAR ENDING NOVEMBER 1, 1932

COUNTIES	Cost of prosecution in Superior Court	Paid for prisoners in jail	Paid grand jurors	Paid traverse jurors, criminal cases*	Fines, etc. imposed in Superior Court	Fines, etc. collected in Superior Court	Fines, etc. collected in all courts
Androscoggin	$13,507.63	$21,276.45	$1,891.14	$18,476.38	$1,461.70	$489.17	$5,861.41
Aroostook	9,988.81	5,086.43	1,525.32	8,331.96	14,120.65	9,804.80	14,364.35
Cumberland	35,123.91	41,418.51	2,542.96	5,376.40	8,312.31	4,907.48	22,655.53
Franklin	2,171.67	7,960.86	514.16	1,694.26	1,608.73	373.87	2,056.70
Hancock	1,519.48	4,145.05	1,515.18	5,733.22	484.82	863.57	1,964.88
Kennebec	8,571.52	8,069.02	960.58	7,820.02	4,546.39	2,645.05	9,477.42
Knox	1,246.36	3,380.39	932.60	1,080.00	1,078.79	295.40	1,359.43
Lincoln	1,070.22	1,148.20	578.36	880.00	836.86	617.07	1,099.44
Oxford	4,026.00	5,652.52	834.26	8,000.00	4,351.17	1,696.34	4,914.99
Penobscot	16,685.52	8,815.15	2,932.74	15,698.39	5,745.81	2,930.08	19,782.58
Piscataquis	2,237.51	3,279.71	666.88	2,609.52	1,117.33	271.94	2,264.64
Sagadahoc	1,023.24	3,404.83	431.22	1,340.20	1,801.48	1,738.20	3,401.48
Somerset	4,554.98	5,158.60	1,049.04	5,698.88	3,925.81	1,374.09	7,519.22
Waldo	880.59	1,356.15	589.44	2,094.28	655.20	348.10	1,113.80
Washington	2,788.77	3,841.50	1,067.76	365.00	355.94	862.12	2,435.86
York	4,213.79	10,396.40	3,552.80	17,347.80	6,375.18	752.64	12,698.71
Totals	$109,610.00	$34,389.77	$21,584.44	$102,546.31	$56,778.17	$29,969.92	$112,970.44

*Includes civil jurors in most counties.

BAIL, 1931

Counties	Bail called, cases and amounts		Scire facias begun		Scire facias continued for judgment		Scire facias closed		Scire facias pending at end of year		Cash bail collected	Bail collected by county attorney
Androscoggin	—	———	—	———	—	———	—	———	—	———	———	———
Aroostook	6	$1,900.00	—	———	—	———	—	———	2	———	———	———
Cumberland	11	5,900.00	4	$10,500.00	—	———	—	———	13	$15,500.00	———	$1,800.00
Franklin	—	———	—	———	—	———	—	———	—	———	———	———
Hancock	2	1,000.00	2	1,000.00	—	———	—	———	2	1,000.00	———	———
Kennebec	8	4,000.00	8	4,000.00	4	$2,000.00	2	$1,000.00	5	2,500.00	———	1,000.00
Knox	1	100.00	—	———	—	———	1	441.08	—	———	$100.00	———
Lincoln	—	———	—	———	—	———	—	———	—	———	———	———
Oxford	—	———	—	———	—	———	—	———	—	———	———	———
Penobscot	8	2,600.00	9	53.96	—	———	—	———	—	———	———	———
Piscataquis	—	———	—	———	—	———	—	———	—	———	———	———
Sagadahoc	—	———	—	———	—	———	—	———	—	———	———	———
Somerset	1	500.00	—	———	—	———	4	118.07	—	———	———	———
Waldo	1	1,000.00	1	1,000.00	—	———	1	1,000.00	—	———	———	———
Washington	1	500.00	—	———	—	———	—	———	—	———	———	———
York	13	4,300.00	8	2,800.00	3	1,500.00	—	———	5	1,300.00	900.00	100.00
Totals	52	$21,800.00	32	$19,353.96	7	$3,500.00	8	$2,559.15	27	$20,300.00	$1,000.00	$2,900.00

Cases are omitted where bail was called and defaulted, and default later stricken off on surrender of respondent.

BAIL, 1932

Counties	Bail called, cases and amounts		Scire facias begun		Scire facias continued for judgment		Scire facias closed		Scire facias pending at end of year		Cash bail collected	Bail collected by county attorney
Androscoggin	—	———	—	———	—	———	—	———	—	———	———	———
Aroostook	10	$5,000.00	—	———	—	———	—	———	2	$1,000.00	———	———
Cumberland	3	1,500.00	2	$4,000.00	—	———	5	$6,500.00	2	2,000.00	———	$1,500.00
Franklin	1	100.00	—	———	—	———	—	———	—	———	———	———
Hancock	1	500.00	1	500.00	—	———	—	———	1	500.00	———	———
Kennebec	11	7,550.00	7	5,500.00	1	$500.00	3	1,500.00	5	4,000.00	50.00	50.00
Knox	—	———	—	———	—	———	—	———	—	———	———	———
Lincoln	—	———	—	———	—	———	—	———	—	———	———	———
Oxford	—	———	—	———	—	———	—	———	—	———	———	———
Penobscot	16	5,800.00	2	1,000.00	—	———	1	500.00	3	900.00	———	———
Piscataquis	—	———	—	———	—	———	—	———	—	———	———	———
Sagadahoc	2	1,600.00	—	———	—	———	—	———	—	———	1,600.00	———
Somerset	4	1,700.00	1	300.00	—	———	1	42.00	—	———	———	———
Waldo	—	———	—	———	—	———	—	———	—	———	———	———
Washington	—	———	—	———	—	———	—	———	—	———	———	———
York	23	9,900.00	18	8,200.00	8	3,400.00	2	600.00	7	5,000.00	500.00	———
Totals	71	$33,650.00	31	$19,500.00	9	$3,900.00	12	$9,142.00	20	$13,400.00	$2,150.00	$1,550.00

Cases are omitted where bail was called and defaulted, and default later stricken off on surrender of respondent.

LAW COURT CASES, 1931

County	Name of Case	Outcome
Androscoggin...	L. C. Gove.....	Judg. for State, Jan. 19, 1931, 130 Me. 509
	William Rioux.....	Judg. for State
	Mary Sanborn Adelard Roy	Judg. for State
Cumberland....	John Kelley Mark Scolling	Judg. for State
	William E. Gray.....	Judg. for State
	Roscoe Moody.....	Judg. for State
	Geo. L. Loring.....	Judg. for State
	Abraham Geisinger....	Judg. for State
	Ernest Salomone.....	Exc. sust. Mar. 18, 1932, 131 Me. 101; pending
Franklin.....	James A. Pulsifer.....	Judg. for State, Dec. 1, 1930 129 Me. 423
Kennebec.....	Max Goldberg.....	Nol-pros ordered, Jan. 8, 1932 131 Me. 1
Lincoln.....	Alton A. Gross Harold I. Gross Blanche Gross	Judg. for State, Apr. 13, 1931 130 Me. 161
	Harold L. Dennison ...	Judg. for State
Oxford.....	Onesime Vermette Tony Lumbarti ...	Judg. for State, Oct. 16, 1931 130 Me. 387
Penobscot.....	Cecil H. Curtis.....	Judg. for State
	Carl Hughes Edward Hughes	Exc. sust., Nov. 26, 1930, 129 Me. 378; nol-prossed
	Richard Rist.....	Judg. for State, April 4, 1931 130 Me. 163
	Rice & Miller Co.....	One case dismissed; judg. for State in other case, July 13, 1931, 130 Me. 316
Sagadahoc.....	Chester A. Plant Arthur L. Plant	Nol-pros ordered, June 3, 1931 130 Me. 261
	Winfield S. Joy.....	Judg. for State, May 15, 1931 130 Me. 519
Somerset.....	Edwin E. Cates.....	Appeal withdrawn, sentenced on another case
	Emile S. Beaudoin.....	Judg. for State, Feb. 9, 1932 131 Me. 31
York.....	Thomas E. Parady....	Exc. sust., Oct. 9, 1931, 130 Me. 371; nol-prossed
	Arthur L. Corriveau...	Report discharged, Feb. 25, 1932 131 Me. 79

LAW COURT CASES, 1932

County	Name of Case	Outcome
Androscoggin...	Leo Rheaume.....	Judg. for State, June 15, 1932 131 Me. 260 [nol-prossed
Aroostook.....	Fred P. Morin.....	Exc. sust., Nov. 15, 1932, 131 Me. 349;
	George Crabb.....	Judg. for State, Nov. 8, 1932, 131 Me. 341
	Vaughan McNaughton.	Pending
	James Nason.....	Judg. for State
Cumberland....	Harry Kovensky, Emery Leo	Judg. for State
	John J. O'Donnell, Gregory Griffin, Philip Williams	Judg. for State, July 27, 1932 131 Me. 294
	Rocco Navarro.....	Exc. sust., Nov. 12, 1932, 131 Me. 345;
	Gladys French.....	Judg. for State [pending
Hancock.....	Cornelius D. Shea.....	Pending
	William C. Barbour....	Judg. for State
Kennebec.....	Robert Baitler.....	Judg. for State, July 21, 1932 131 Me. 285
	C. Guy Hume.....	Judg. for State
	James G. Taylor.....	Judg. for State
Knox.....	William Merrill, Roy M. Cook, George Leavitt	Judg. for State
Oxford.....	Donald Kilbreth.....	Judg. for State
Penobscot.....	Harry Poole.....	Pending
	J. Oliver Tilley.....	Pending
Somerset.....	Mrs. Fred Merrill.....	Pending
	Guy Parker.....	Pending
York.....	John P. H. Chandler...	Remanded for trial June 25, 1932, 131 Me. 262; appeal to Supr. Ct. of U. S. dismissed
	Isaiah Chadbourne....	Pending
	Fred Rose.....	Pending

OPINIONS OF THE ATTORNEY GENERAL'S DEPARTMENT

AUTOMOBILE DRIVERS' REGISTRATION UNDER FINANCIAL RESPONSIBILITY LAW

June 1, 1931

To Hon. Edgar C. Smith
Secretary of State

You inquire whether you should suspend a license or certificate of registration under R. S., ch. 29, sec. 97, when you find that a defendant against whom a judgment, within the terms of that section, has been rendered, has subsequently obtained a discharge in bankruptcy.

While the question is by no means free of doubt, I am of the opinion that you should disregard the judgment after learning of the discharge effective against the judgment.

The question is whether a discharge in bankruptcy fully satisfies the judgment of record.

Our statute specifies that the "judgment is unsatisfied" and again "judgment is fully satisfied of record."

Similar statutes in some other jurisdictions leave the question less doubtful. In Ontario, the expression is "until such judgment is satisfied or discharged; otherwise than by a discharge in bankruptcy." Manitoba has the same wording, and so does New York as follows: "while any such judgment or judgments remain unstayed, unsatisfied and subsisting," "until said judgment or judgments are satisfied or discharged, except by a discharge in bankruptcy." The Iowa statute uses the expression "such judgment has been stayed satisfied or otherwise discharged"; Connecticut requires "a copy of a satisfaction of judgment"; California uses the words "unsatisfied and subsisting." It will be seen that several of these statutes make plain that a discharge in bankruptcy is to be disregarded. Whether or not such a statute is unconstitutional, we do not need to inquire, because it seems to me that an effect, such as these statutes aim to accomplish, requires an express indication of a statutory intent to that effect which is not contained in the Maine statute.

The statute is a police measure passed for the protection of users of the highway and the particular judgment creditor whose damages are unpaid. This is a praiseworthy object, but nevertheless is something new to the law and should not be extended further than the legislature has prescribed.

It is true that technically a judgment is not "satisfied" by a discharge in bankruptcy. To that extent, the discharged judgment debtor is not within the express protection of the statute under consideration. On the other hand, the federal constitution gives Congress the power to legislate in bankruptcy matters. By the bankruptcy act, as uniformly interpreted by the courts, Congress has

endeavored to give a broad effect to bankruptcy discharges, in order that one of the main objects of the bankruptcy act might be accomplished; viz, clearing the way to a new start in life for the discharged bankrupt. He has turned over all his property to be divided among his creditors, including the particular judgment creditor in question. The judgment cannot be asserted against him by that creditor. Its effect against the judgment debtor and his property is wiped off the books. To continue to give effect to that judgment, so as to impede the judgment debtor from resuming his place in the community would, to a considerable extent, destroy the effect of the discharge. This, it seems to me, cannot be done by indirection, even if it can be done by an express statute as New York has attempted.

AUTOMOBILE TRUCKS—MAXIMUM GROSS LOADS ALLOWABLE

March 19, 1932

To State Highway Commission

Regarding the maximum gross load of trucks, R. S. ch. 29, sec. 56, is ambiguous. The general provision in the first part of the section sets a gross load of 18,000 pounds for a four-wheel truck, and 27,000 pounds when a trailer follows. The last part of the section introduces provisos. One of these permits an increase of gross weight to 20,000 pounds when the weight does not exceed 600 pounds to an inch width of tire, and 16,000 pounds to one axle; and another proviso permits an increase to 24,000 pounds on four-wheel vehicles equipped with pneumatic tires if the weight on the road surface does not exceed 600 pounds per inch width of tire, and the weight on any one axle does not exceed 18,000 pounds. No express reference to trailers is contained in these several provisos.

In this ambiguity I feel constrained to follow the ruling of the Law Court in its most recent case interpreting an ambiguous statute. In the Standard Oil Company tax case, so-called, decided within a few weeks, the court stated that,—

> "In construing statutes courts expound the law; they cannot extend the application of a statute nor amend it by the insertion of words."

One canon of statutory construction is that a proviso or exception to a general statement is interpreted strictly, and not extended by implication unless clearly necessary.

I see no necessity for extending the proviso in the section above referred to to cover the case of trailers. It may well have been that the legislature felt that a 27,000 pound load is the maximum weight which should be permitted under any conceivable circumstances to the vehicle or vehicles propelled on the highway by a single power plant. In other words, that this is the maximum which should be permitted to any vehicle or series of vehicles forming a single connected transportation unit.

I therefore rule that under the statute as it stands the maximum is 27,000 pounds, and not 36,000.

AUTOMOBILE TRAILERS—MAXIMUM LENGTH ALLOWABLE

June 17, 1932

To Hon. Edgar C. Smith
Secretary of State

You inquire with reference to the interpretation of R. S. sec. 54 of ch. 29, as amended, with reference to the length of trailers attached to motor vehicles. The paragraph in controversy prohibits the use of motor vehicles "which exceed in length thirty-six feet over all," and further says that,—"No trailer attached to a motor vehicle shall exceed in length twenty-six feet over all." The controversy arises with respect to certain vehicles constructed for the purpose of being annexed to other vehicles, but so constructed that when annexed they overlap the principal vehicle thus forming a single rigid six-wheel unit.

Our motor vehicle law does not distinguish between trailers which run on the highway as independent units and overlapping or "semi-trailers" which are more firmly affixed to the principal vehicle, but in sec. 1, simply defines a "trailer" thus:

> "Any vehicle for transportation of passengers or commodities without motive power, not operated on tracks, drawn or propelled by a motor vehicle, except a pair of wheels commonly used for other purposes than transportation."

It refers to trailers generally in several places, e. g., in sec. 50, requiring their registration; and in sec. 54, setting up the fees for such registration. This section classifies trailers with the carrying capacity of 4,000 pounds "as trucks"; prohibits "more than one trailer . . . . drawn by a motor vehicle. . . ." Sec. 56 limits the weights of trucks, tractors, trailers and other commercial vehicles and expressly provides for the gross weight of a vehicle upon six or more wheels "by the combined use of a trailer or otherwise."

The only cases which have come to my attention in which trailers have been especially referred to are these:

State v. Vanderbule, 239 N. W. 485 (So. Dak. Dec., 1931.) The court in discussing a weight limit statute applying to a "single vehicle" ruled that the part of a trailer which overhangs the truck becomes a part of the truck when in use so that in computing load and weight that portion is truck and not trailer. The gross weight of the truck and load includes the overlapping weight of the trailer. The rest of the trailer and its load are a separate item.

On the other hand, in *Leamon v. Ohio*, 17 Ohio App. 323 (1923), under a weight load statute the court held that an overlapping trailer attached to a truck loses its identity and becomes a part of one power vehicle or contrivance with six wheels.

In New Hampshire, under a registration statute, the Attorney General, under date of October 19, 1928 (Report 1928-30, page 10)

ruled that an overlapping trailer is a separate vehicle under the registration statute. The statute, however, seems to have specified four-wheeled vehicles, hence the Attorney General felt obliged to rule that a combination having six wheels would be two vehicles.

In Illinois the Attorney General, under date of November 21, 1927 (Report 1927, page 462) under a registration stature rules that an overlapping or "semi-trailer" must be licensed separately under a statute providing for licensing "trailers." But in this opinion he was merely reconciling two portions of a section, which section expressly said that, "all trailers and semi-trailers" must pay license fees.

Giving weight to these rulings as far as practicable and interpreting our statutes as they stand, I am of the opinion that,—

1. All trailers, regardless of the method of their annexation to the principal vehicle, must be separately licensed.

2. Only one such trailer can be annexed to a motor vehicle. If it is annexed so firmly that it forms one firm unit on the highway no third unit can be appended.

3. The trailer itself must not exceed twenty-six feet in length. As I interpret it, this means that the unit which is licensed as a trailer must not be more than twenty-six feet long. It is immaterial whether or not, when operated on the highway, the part of the twenty-six feet overlaps the principal vehicle. In any event it is a trailer and licensed as such. This length limitation occurs in the license section of the statute. If the trailer as a separate unit exceeds twenty-six feet it cannot legally be attached to a motor vehicle.

4. No single motor vehicle constructed and licensed as a single entity can exceed thirty-six feet in length. It may have attached to it a trailer which is itself twenty-six feet in length. The combined maximum length of vehicle plus trailer is sixty-two feet, but the separate units before they are combined must not exceed thirty-six and twenty-six feet respectively.

The clue to the interpretation of the problem which you put is that the licensing section defines the maximum length, first, of motor vehicles, secondly, of trailers as separate units and carries no provision authorizing either unit to be longer than this maximum because of their prospective operation as one complete whole.

BANKING LAW—LOAN AND BUILDING ASSOCIATIONS

May 25, 1932

To Hon. Sanger N. Annis
Bank Commissioner

In your letter of April 20, 1932, you suggest that certain questions have arisen relative to the statutory powers of loan and building asso-

ciations, and ask the opinion of this department regarding the following questions:

1. Can a loan and building association borrow money from any other loan and building association having surplus uninvested funds with the approval of the Bank Commissioner?

2. Can a loan and building association borrow money from any other source, or in any other manner, and if so, from what source and in what manner?

3. Can a loan and building association loan money to a shareholder on security of a first mortgage on real estate in an amount exceeding $200 for each share pledged by the borrower?

4. Can a loan and building association loan money to any borrower on security of a first mortgage on real estate unless accompanied by a pledge of shares on a basis of not exceeding $200 for each share pledged?

5. Can a loan and building association loan money to any shareholder secured by a second mortgage on real estate, if the association holds the first mortgage on the same property?

Question 1, we answer in the affirmative. Sec. 108 of ch. 57 of the Revised Statutes, 1930, provides that,—

". . . . Any balance remaining unloaned to members may be invested in such securities as are legal for the investment of deposits in savings banks, or with the approval of the bank commissioner may be loaned in whole or in part to other loan and building associations in this state. No loan shall be made on the gross premium plan."

The right of one association to loan to another association with the approval of the Bank Commissioner is indicative of the right of the other association to borrow.

Question 2, we answer in the negative, there being no provisions of the statutes, except as stated in answer to Question 1, relative to the borrowing of money.

Question 3, we answer in the negative. In sec. 108 already referred to it is provided that,—

"Any member may, upon giving security satisfactory to the directors, receive a loan of two hundred dollars for each share held by him, or such fractional part of two hundred dollars as the by-laws may allow."

The legislature by expressly setting up this form and amount of loan impliedly excludes other loans.

Question 4, we answer in the negative. Sec. 108 above quoted, and sec. 111 which provides that,—

"For every loan made, a note secured by a first-mortgage of real estate shall be given accompanied by a transfer and pledge of the shares of the borrower,"

evidently limit the loan to $200 for each share held by the member or shareholder.

Answering *Question* 5, we call your attention to sec. 111 wherein it is provided that,—

"For every loan made, a note secured by a first-mortgage of real estate shall be given."

It is possible that a second-mortgage might be taken where the association holds a first mortgage, provided that the amount borrowed on both mortgages does not exceed the amount of the shares of the borrower taken on a basis of not exceeding $200. This precise question has never been decided by the court and is not free from doubt.

In some cases, where a borrower desires to increase his loan above the maximum specified in the original mortgage, a new note and mortgage for the full amount has been made and the first note and mortgage canceled. Such we believe to be the better practice although it is true that the net result of the situation would be the same if two notes and two mortgages were taken for the same total amount. If the association has reason to fear that some junior incumbrance might come in ahead of a new first-mortgage surely a subsequent increase of loan on a supplemental mortgage to the association would be inadvisable.

BANKING LAW—LOAN AND BUILDING ASSOCIATIONS

June 17, 1932

To Eugene L. Bodge, Esq.
Portland, Maine

The deputy and myself have given very serious consideration to your letter of June 10 suggesting that we reconsider the opinion of this department, under date of May 25, 1932, in which we ruled against the general power of a Maine loan and building association to borrow money except from another loan and building association, with the approval of the Bank Commissioner under sec. 108 of ch. 57. You cite authorities defining the general powers of such association.

The question is not without difficulty and we should welcome a court determination of the issue. We are constrained, however, to hold the same opinion which we have previously expressed.

It seems to us that the express provision of the statutes cited above vesting the associations with a limited borrowing power, by implication excludes a greater power.

Moreover our courts in at least two cases have defined the object of Maine loan and building associations in restricted language. In *Tibbetts v. Building Association*, 104 Me. 404, 409, the court speaks of the practice of the association, "Like that of similar associations in this state . . . . to accumulate from small contributions capital to loan to members for building purposes . . ."

Money borrowed from a bank is not "accumulated from small contributions."

Again in *Palmer v. Construction Co.*, 121 Me. 188, 190, the court quotes with approval a similar definition of the object of such associations from 9 Corpus Juris.

Our deduction from the discussion of the general power of such associations to borrow money, in 9 C. J., page 953 et. seq., is that the borrowing power is essentially limited. To extend to such associations the general right to borrow is to give them the right to enter into a quasi banking business and widely depart from the narrow specialized nature of their organization and purposes.

If the legislature intended to vest such associations with such power it should have said so, and if such power is advisable the legislature can create it; safeguarding it at the time with such restrictions as it thinks best.

Fundamentally, it seems to us that a loan and building association is by no means equivalent or identical with a corporation organized under the general law. That, in a nutshell, is where our views apparently diverge from yours.

As to your suggestion that our opinion comes at an inopportune time, we can only say that the Bank Commissioner was pressed for a ruling on the point by one of the associations and, therefore, had to ask us for our opinion. Inquiry and litigation bringing about a re-examination of existing assuptions and practices often produce disturbing results. Happily any error in judgment on our part in our opinion as previously rendered and now confirmed, can be readily corrected by court or legislative action in due course.

BANKING LAW—SEGREGATED ASSETS OF TRUST COMPANIES

October 18, 1932

To Hon. Sanger N. Annis
Bank Commissioner

I am glad to confirm as the official opinion of this department the memorandum given you under date of October 11, 1932, concerning the suggested action of directors of trust companies with relation to segregated assets, as follows:

1. A Maine trust company, subject to the provisions of ch. 57, sec. 61 to 96 inclusive, R. S. 1930, may lawfully withdraw assets segregated and set apart as security for savings deposits and pledge them to secure a loan, the proceeds of which may be used for the general purposes of such trust company, provided assets of sufficient value be substituted for those withdrawn.

2. The character of the assets so substituted is a matter within the discretion of the directors of the company, acting in good faith. In case of doubt arising in the minds of directors as to whether or not certain assets could properly be used in such substitution, the judg-

ment of the Bank Commissioner as to the business proposition involved and of the Attorney General as to the legality of the transaction might well be appealed to, and the following of such advice would be evidence of the good faith of the directors and of any purchaser or pledgee of such assets fully familiar with the transaction.

3. Assuming a withdrawal and substitution as above outlined, the trust company may pledge the assets so withdrawn as collateral security for a loan, the proceeds of which are to be used for purposes other than for the security and payment of savings deposits, and thereby give the lender a valid lien thereon to the full extent of the loan.

4. Assuming that the value of the assets so substituted is in the judgment of the board of directors of such trust company at least equal to the value of the assets so withdrawn from segregation and that the board of directors so determine by proper resolution duly passed, such trust company may lawfully sell or pledge such assets so withdrawn and pass good and clear title thereto, free from all trusts or restrictions arising under the provisions of the statutes, to a purchaser or pledgee taking the same in good faith in reliance upon such resolution, and use the proceeds of such sale of pledge for its general banking purposes.

5. A Maine bank or trust company may lawfully withdraw from segregation, in accordance with the provisions of the statutes and use for its general banking purposes assets theretofore so segregated to the extent that the value of the entire assets so segregated exceeds the then segregated amount of savings deposits and thereafter use the assets so withdrawn for its general banking purposes free and discharged of any trust or lien arising under the statutory provisions.

6. A Maine bank or trust company having segregated assets pursuant to the provisions of law may lawfully and effectively pledge such assets while so segregated to secure the repayment of money borrowed by such bank or trust company pursuant to a resolution of its board of directors authorizing such borrowing upon such security and directing that the money so borrowed be segregated and set apart in accordance with the statutes.

BRIDGE ACT

June 30, 1931

To State Highway Commission

In answer to your inquiries of April 24th regarding P. L. 1931, ch. 93, the Bridge Act,—

(1) The compact portion of a city or town of over ten thousand inhabitants is determined by the Commission in accordance with the suggestions in my recent letter referring to the state highway in South Portland.

(2) The length of the approaches to a bridge are to be determined by the Commission in the absence of legislative definition.

(3) The state is responsible for a bridge which is on the dividing line between a town of less than ten thousand and a town of over ten thousand. Sec. 1 of the act places the general responsibility of all state highway bridges and approaches on the state, with the exception as stated. According to usual rules of statutory construction, the general expression prevails except where a case is clearly within the exception. Unless a bridge, viz,—a whole bridge,—is within the compact portion of a town of over ten thousand, the bridge is for the state to construct and maintain.

(4) It makes no difference whether at the present time a bridge is maintained by county, town or bridge district. The only requirement of the statute is that the bridge should be on a state highway as defined in section 2.

(5) Maintenance charges placed on railroads by order of the Public Utilities Commission are unaffected by the act. The purpose of the act is limited to public expenditures, its object being to place on the state certain expenditures now placed on counties, towns and bridge districts.

(6 and 7) Maintenance includes the cost of operation of a movable span for navigation purposes, and maintenance and power for lights.

BUCKSPORT-VERONA BRIDGE

June 30, 1931

To State Highway Commission

You inquire as to the effect of P. & S. L. 1931, ch. 112, on the expenditure of bond issue funds for constructing the Bucksport-Verona bridge.

Prior to the convening of the recent legislature I filed an opinion to the effect that the bridge from Verona to Bucksport was outside the bond issue because it was neither a bridge from Prospect to Bucksport nor a bridge from Prospect to Verona, and could not be held as a matter of law to be "an approach" to the prospective bridge from Prospect to Verona.

Our law court held in *Starrett v. Highway Commission*, 126 Me. 212, that approaches are part of a bridge. It would follow that an approach to the bridge from Verona to Prospect is within the bond issue for constructing that bridge.

The legislature has now defined the bridge from Bucksport to Verona as an approach to the bridge from Verona to Prospect.

The court and *a fortiori* executive departments of the state must respect a definite legislative fiat unless it is clearly unconstitutional. I cannot say that the legislature has gone beyond its province in de-

fining this Bucksport-Verona bridge as an approach to the Verona-Prospect bridge. I find no decided cases where such a definition has been ruled upon by the courts. I cannot say that our court would rule it unconstitutional.

In my opinion, therefore, the legislative definition stands effective, and under it bond issue money can properly be applied on the Bucksport-Verona bridge.

"COMPACT PORTIONS" OF TOWNS FOR STATE HIGHWAY PURPOSES

June 10, 1931

To State Highway Commission

I have your request for my interpretation of the law governing the expenditure of bond issue money on a state highway running through the compact portion of a city. You enclose copy of a letter from the commissioners of public works of South Portland.

Article LII, of the Constitution adopted September 9, 1929, provides for expending the proceeds of the bond issue in part for "the construction of the present system of state highways designated prior to April 1, 1929"; in part "for the reconstruction of state highways forming a part of that system heretofore constructed"; in part for "the construction of state highways hereafter to be designated"; and in part for "bridges."

The Commission has the power under R. S. ch. 28, sec. 8, to "lay out, construct and maintain a system of state . . . highways."

By that section the Commission is the "sole arbiter of the designation of the state . . . . highways." State highways are paid for from state funds except where a town requests the expenditure of a joint state aid fund upon a certain state highway.

By sec. 13 of the same statute "no funds for construction derived from any bond issue shall be expended on any highway within the compact portions of any town, except in towns of less than five thousand inhabitants, such compact portions to be determined by the commission."

By sec. 7 of the same chapter expenditures by the Commission are "with the approval of the Governor and Council."

I find no express restriction on the power of the Commission, under sec. 13, to determine what is a "compact portion." The only statutory reference to a "compact portion" occurs in R. S. ch. 29, sec. 69, where in setting up certain speed regulations applicable to a "built-up portion as defined herein," the statute says this,—

> "The compact or built-up portions of any city, town or village, shall be the territory of any city, town or village contiguous to any way which is built up with structures devoted to business or where the dwelling-houses are situated less than one hundred fifty

feet apart for a distance of at least one-quarter of a mile. Municipal officers may designate such compact or built-up portions by approrpiate signs."

This same section is referred to for the definition of "compact or built-up portion" in sec. 8 of the same chapter, which provides that in designating "through ways" for the purpose of stop sign regulations, the Commission shall make such a designation "within the compact or built-up portion" of a community "only with the approval of the municipal officers thereof."

It is my opinion that in determining what is a compact portion with reference to the expenditure of bond issue funds under sec. 13 above quoted, the Commission is not limited by the statutory definition of a compact portion which is quoted above. That definition is found in the chapter which relates to motor vehicles and their operation, and in sections referring to the rate of speed at which cars can be legally operated, and to stop sign regulations. In the chapter governing the Commission in the construction and maintenance of highways, the expression "compact portion" is not defined.

To apply the definition above quoted in the circumstances for which it is created is not difficult. It helps to define a crime, viz.: over speeding. The question presented in such a case is whether a car is being operated contrary to law at a certain time and place. The question becomes this: Is one certain place in the highway within a "compact portion" of the community? Measurements in such cases naturally start from that place and I should say that the quarter-mile limit pivots on that place. In applying that statutory definition to those circumstances, a court would hardly average up the buildings over a territory of substantially greater length overlapping a quarter of a mile in the immediate vicinity of the alleged crime.

To apply this section of the statute to the quite different problem of road construction has obvious difficulties. You are viewing the problem, not from the point of view of classifying a certain limited portion of the highway, but from the point of view of classifying a considerable extent of highway.

The problem of the Commission may be whether it is advisable to construct a state highway for a considerable distance with varying conditions during portions of the route, and in particular where to stop a through project.

As a matter of general interpretation, the word "compact" has different meanings according to the subject in connection with which it is used. Some of these meanings are discussed in *People v. Thompson*, 155 Ill., 451; and in *Moore v. Maine Central R. Co.*, 106 Me. 297, where the court upheld a verdict for the plaintiff based on a finding of the jury that a railroad train was run at a dangerous rate of speed in a compact part of a town. In that case the jury determined as a fact that a village containing twenty-five buildings all within 350 feet of a certain store was "a compact portion of the town."

It seems to me, therefore, that the whole question is one distinctly for the Commission to determine on general principles and by the exercise of a reasonable discretion, subject to the approval of the Governor and Council. The definition which appears in another chapter of the statute is persuasive and may properly be given great weight, but in the end the determination is to be made on the basis of all the circumstances of which this statutory definition is but one.

It seems to me also that the federal law has little, if any, applicability. Whether or not federal aid can be obtained in the construction of a state highway is irrelevant to the question of its designation and construction as a state highway under our own statutes.

DEFENSE OF STATE EMPLOYES FROM DAMAGE SUITS

August 14, 1931

To Hon. Wm. Tudor Gardiner
Governor of Maine

You inquire regarding action proper to be taken by the state in the matter of a suit at law which is being brought by a private citizen against a member of the state highway police, claiming damages for an alleged slander uttered by the officer in connection with carrying out his duties. Specifically, the following inquiries arise:

1. What lawyer should defend him?
2. Who should pay the legal expense?
3. Who should pay any judgment that may be recovered against him?
4. If the officer pays this legal expense or such judgment can he get reimbursement from the state?

These inquiries I answer thus: The officer could employ his own lawyer; pay the expenses of the litigation and any judgment that may be recovered; and has no legal right to seek reimbursement from the state.

I do not find that any definite ruling on these points has been made by the courts of this state or by my predecessors in office, but the foregoing answer to the questions put conforms to the rulings of other states and the practice there of Attorneys General and other administrative state officials.

My predecessors have followed this same procedure. In a case which originated a few years ago the then incumbent of the office referred to private counsel a state police officer sued for false arrest. Judgment having been recovered against the officer he was refused reimbursement by the legislative claims committee.

The position thus taken is fundamental, based on a public policy of long duration. One who accepts public office as a state police officer or in any other position, accepts it with all its burdens, and one of the

burdens is that the official is answerable personally to any person injured by an abuse of authority on the part of the official. This carries with it the corollary that the official at his own expense must defend actions brought against him, though they be based on groundless charges.

The leading case on the subject is *Chapman v. New York*, 168 N. Y. 80; 56 L. R. A. 846; 85 A. S. R. 661.

In this case the petitioning police officer of the City of New York brought procedure authorized by a New York statute for the purpose of fixing and collecting from the city his counsel fees for defending charges of official misconduct. The court held the statute unconstitutional and void under the constitutional provision against the expenditure of public funds for other than public purposes. The court held that there was not even a moral obligation on the part of the community to repay these expenses.

In this case, the principle that a public officer must bear the expenses of his own defense was applied in circumstances where the official had a peculiar claim to public sympathy. He had been, as the event showed, unnecessarily brought into court for an examination of his official doings. There would certainly seem to be a very real reason for refunding from the public treasury the expenses which he incurred.

Under such circumstances the practice in this state might be different. The legislature might feel, and in some cases in the past has felt, that the state should furnish a defense to persons accused of official misconduct, in the same way that a defense is furnished to a person accused of a capital crime.

The general principles of which the Chapman case is an extreme example are, however, well established. These and their corollaries applicable to the inquiry before us may be summarized as follows:

First: That the state, of course, cannot without its consent be sued directly or indirectly, and even a municipality cannot be sued for the wrongdoing of its employees in carrying out an essential governmental function such as police duties; nevertheless, it is undisputed that an individual official, such as a police officer charged with ministerial as distinguished from judicial duties, can himself be sued in a private action for any misfeasance on his part which injures a private individual.

Chase v. Cochran, 102 Me. 431. (Selectmen building bridge.)

Ford v. Erskine, 109 Me. 164. (Selectmen building road.)

Wellman v. Dickey, 78 Me. 29. (Highway surveyor destroying private trees.)

Manwaring v. Geisler, 191 Ky. 532; 18 A. L. R. 192, and cases cited in the L. R. A. annotation.

See also 40 A. L. R. 1360 n.; 22 R. C. L. "Public Officers," section 152.

46 C. J., Article "Officers," sections 327, 336.

Secondly: The duties of the Attorney General are confined to cases in which the state has a direct concern. His is the responsibility

to determine whether the rights of the state require his interposition, and only when this is true should he appear officially in private litigation.

See the statutory duties of the Attorney General as defined in R. S. ch. 91, sec. 78, et seq; 8 C. J. Article "Attorney General," sec. 18, 30; 2 R. C. L., Article "Attorney General," sec. 7, 8.

Thirdly: The use of public money is unjustified for carrying on private litigation even when one of the litigants is a public official. This point has, in the nature of things, been commented on by the courts chiefly in connection with municipal corporations, because they and their officials are subject directly to suit, as the state is not.

In the case of municipal corporations the courts have held that an officer cannot be indemnified for a loss or expenditure incurred in the discharge of his duty unless the duty was authorized or imposed by law, or the matter one in which the corporation had an interest.

Gregory v. Bridgeport, 41 Conn. 76.

James v. Seattle, 22 Wash. 654.

This test would hardly apply to the case of an officer committing or accused of committing a private tort such as slander.

A town cannot indemnify selectmen for the expense of resisting criminal prosecution in connection with a check-list of voters.

Gove v. Epping, 41 N. H. 539.

Nor can it reimburse a collector of taxes who has improperly taken an uncollectible note for taxes.

Thorndike v. Camden, 82 Me. 39.

In the case of the state litigation over such a reimbursement if made or attempted, would rarely reach the courts, and in such case the courts give the benefit of every doubt to the legislature. Should the legislature pay such a claim as the one under the circumstances it could hardly be disturbed in court, even though as a matter of law its propriety be doubtful.

The courts have held that the reimbursement of a state employe for an accident arising in his employ is valid since it satisfies a moral obligation resting upon his employer, viz.: the people of the state.

Fairfield v. Huntington, 22 A. L. R. 1438 (Ariz.).

The annotation to this case shows plainly, however, that the courts in sustaining such appropriations when brought in question, require definite indication of a general public policy in favor of the payment.

For instance, in *Lewis v. State*, 189 N. Y. Sup. 560, an act authorizing payments for injuries sustained by a militiaman regardless of his own negligence, and irrespective of a showing that they were incurred while he was engaged in the discharge of his duties, was held unconstitutional. The general feeling on the part of the courts that such matters should be left to the good judgment of the legislature, and the general disinclination to override the legislative judgment, is, however, plain.

See 25 R. C. L., Article "States," sections 31, 32, 34.

In *State v. Carter*, 30 Wyoming 22; 28 A. L. R. 1089, the court lays down the test that one criterion by which to judge whether or not

the obligation is a moral one is whether or not an appropriation should have been made before the act was performed. In this case the legislature appropriated relief to the widow of a public officer killed in the performance of his duties. The court presumed that the legislature investigated the facts and found them to be such as to warrant the making of the appropriation.

Summarizing, therefore, it seems to me that the litigation in this case involves no public interest such that the legal representatives of the state should take part in it in behalf of the officer sued. He should secure his own counsel. It is his privilege to apply to the legislature for a reimbursement of his outlay, and the courts will hardly go behind the legislative determination of such a request. It is not, however, for the Governor and Council, for the department with which he is connected, nor for the legal representatives of the state, to admit any responsibility or incur any expense in behalf of the state in the matter. Anything which they do is personal rather than official, and done as a matter of courtesy rather than right.

ELECTION FRAUDS—AROOSTOOK COUNTY

September 28, 1932

To the Honorable Governor and Council

Immediately after the recent state election I received complaints of irregularities in the voting methods in several of the communities in the northern part of Aroostook county. Details were not given, but it was said that the statutes for the conduct and protection of elections had been flouted.

It is not the duty of this department to investigate the proceedings at an election for the benefit of private citizens who may wish to check the apparent with the true result of the election; although of course the Governor and Council may call on me to aid them in assembling facts on any matter within their jurisdiction on which they are called to act. Nor is it particularly my duty to moralize on conditions generally. It is the duty of this department, in cooperation with local prosecutors and arresting officers to see that the criminal laws of the state are enforced.

On receipt of these complaints, therefore, I made arrangements for a simultaneous one day's investigation of the facts in eleven of these towns by ten investigators under the general oversight and direction of Richard K. Gould, Esq., a Portland attorney. The sheriff of the county on request furnished ten deputies to accompany and introduce these investigators; he himself went with Mr. Gould; and the county attorney, informed of the proceedings, stood ready to cooperate during or subsequent to the investigation. I believed that such an investigation, though necessarily incomplete, would give a trustworthy clue to the general situation. It seems to me that it has.

Since considerable public interest has accompanied the investigation, I am reporting my conclusions to the Governor and Council. My object was to learn whether there were indications that serious crimes were committed, such that further action by this department might be necessary. My conclusion is: No. Crimes are of two general classes,—felonies and misdemeanors. The election laws specify many misdemeanors which may be committed in connection with registration, balloting, and the returns, but no felonies. The investigation indicates plenty of irregularities in the method of conducting the registration and balloting, but if any misdemeanors were committed, they appear to have originated in carelessness, ignorance, and the practice of past years. As far as this department is concerned, these may be much better corrected by education and an enlightened public opinion in the future, than by seeking to punish any individuals on this occasion.

There are of course felonies which may originate from elections. Were these indicated by the investigation, grand jury action at the instance of this department might well be required. It would of course be a felony for election officials or voters to conspire together with the deliberate intent to produce a fraudulent election. Such a conspiracy might be shown by evidence from statements made and results reported, tending to show a concert of mind between different persons for the purpose of avoiding the election laws and falsifying the balloting or the returns. That was the theory on which the state proceeded in the case of several election officials in Portland some years ago, where the result of the polling showed that the ballot box had been stuffed with marked but unvoted ballots. The prosecution failed, and a verdict was directed against the state, because of lack of evidence to connect the defendants on trial with the wrongdoing. The present investigation wholly fails to substantiate any ground for proceeding on any such theory against any persons.

In short, I find no occasion for the taking of any action whatever by this department to enforce criminal liability upon any persons.

ELECTION LAWS—POWER OF GOVERNOR AND COUNCIL

October 18, 1932

To Hon. Wm. Tudor Gardiner
Governor of Maine

I have your inquiry regarding the action proper for the Governor and Council to take on the petition of Fred C. Sturtevant under date of October 12, asking an investigation on the eligibility of James Boyle of the town of Sumner to hold the office of representative to the eighty-sixth legislature of the State of Maine.

In my opinion this investigation is not within the province of the Governor and Council. The legislature itself is the judge of the qual-

ifications of its own members. The duty of the Governor and Council is limited to canvassing the returns and determining the result of the balloting.

ELECTION LAWS—POWER OF GOVERNOR AND COUNCIL

November 8, 1932

To Hon. Wm. Tudor Gardiner
Governor of Maine

In accordance with your request I am summarizing the situation with reference to the recount of Congressional votes in the third district, in accordance with the views I have already expressed to you in recent conferences.

All the ballots forwarded to Augusta have now been recounted, and if the original returns from the various towns as tabulated by the Governor and Council on September 28th are corrected in accordance with this recount, the candidate whose election appeared on the original tabulation, Mr. Utterback, stands elected on this corrected tabulation with a very small variation in his plurality.

The question now before the Governor and Council is whether it should go further and inquire into the circumstances under which the ballots were cast.

The Council has discussed the possibility of asking the Law Court for its opinion. Whether this is the solemn occasion which the Constitution names as the reason for such an inquiry may be a question. If the interrogations should be put, the court's answer will settle it. In the meantime, the Council have not asked my opinion. You have, however, and I am frank to say that my answer is "No." I doubt if under any circumstances the Governor and Council have jurisdiction to inquire into the circumstances of the election of a member of Congress. Certainly there is no such jurisdiction in the case now presented for their consideration.

To show the basis for my conclusion let me summarize the documents which the parties have filed, and analyze the case thus presented in the light of the statutes and opinions of the Law Court.

* * * * *

Such being the allegations in the documents themselves, do they call for action? If we assume for the present that there is no question of the jurisdiction of the Governor and Council, do these documents adequately invoke it? My answer is "*No.*"

Should the ballots have been recounted?

First, as to a recount, which has already been completed; for the purpose of correcting the returns by the ballots themselves.

I am doubtful whether it was the duty of the Governor and Council to recount the ballots in all the precincts in the district merely on the

basis of the request filed. R. S. ch. 8, sec. 55, provides for an examination of the ballots:

> "Cast in said town and returned to the Secretary of State upon written application . . . . alleging that the return or record of the vote cast in any town does not correctly state the vote as actually cast in such town."

This addition was made some years ago to the statutes, in order to authorize the Governor and Council to go beyond the records made at the time of the election. The old law permitted the Governor and Council to correct the returns as sent in, in accordance with the record as made. This statute clearly gave them the power in certain instances to look at the ballots themselves,—but in what instances?

As far as representatives to Congress are concerned this section merely determines who is to receive the certificate which prima facie entitles the holder to participate in the organization of Congress, and to maintain his seat unless and until his right to hold the office has been passed on if a contest is made. Congress is the final judge of its own elections.

Moreover, this section by its terms in the case of representatives to Congress is limited to "the examination and correction of returns," while in the case of county officers it extends to "determining the election."

There may well be a doubt whether the statute intends that ballots for representative to Congress should be recounted at all, but if we assume that the statute vests the Governor and Council with this power, it is my opinion that definite reasons for the recount must be set forth, and the recount should only extend as far as these reasons obtain. That is, it seems to me that unless an inspection has developed substantial discrepancies which will affect the result of the election, the Governor and Council have no jurisdiction to recount the ballots. The statute contemplates that the candidates shall inspect the ballots, and get their ammunition in hand before they aim their guns., (R. S. ch. 8, sec. 49.)

An instance of a proper occasion for a recount is the recent recount of ballots cast in Knox county for county attorney. An inspection apparently disclosed sufficient errors to substitute the defeated candidate for the one apparently elected on the original tabulation. Both candidates joined in the request for a recount. Had the candidate defeated on the face of the original tabulation merely requested a recount of the precinct where the discrepancy was discovered, it then might well have been proper for the Governor and Council to recount all the ballots in the territory in order that no injustice might be done either party. In the first instance, however, there should be no recount of the original ballots unless a prima facia case has been made out on the basis of an inspection which justifies the petitioner in asking a recount because he can show that he has discovered enough discrepancies to overturn the result of the preliminary tabulation. This the

pleadings here do not definitely claim. They base the request for a recount not on an *inspection* which has given definite date for changing the election, but on a *suspicion* that an inspection *will* show it.

Method of recounting

Secondly, it seems to me that when a recount of the ballots has been ordered, the Governor and Council do not need to personally inspect and count every ballot cast. They should pass only on disputed and questionable cases. It seems to me that the Governor and Council should take the position which a court takes under similar circumstances; viz.: it notifies the contestants that it is up to them to agree upon the undisputed ballots on the basis of an inspection. The Governor and Council need only pass on the comparatively few cases in doubt. Such a procedure would have saved the state much money during the last few weeks, and would place the expense, in the first instance, at least, where it properly belongs, viz.: on the contestants. If thereafter justification should be found for refunding to them any of the expense incurred by them, such expense would be obviously considerably less than the expense which has been running up since the recount began.

Going behind the ballots on the basis of the documents filed

Taking the situation as it now stands, with the ballots recounted, the question before the Governor and Council is what action should be taken on Mr. Brewster's allegations of fraud, lack of secrecy, and irregularities. His position, as I understand it, is that it is the duty of the Governor and Council to investigate into these matters in order that the ballots forwarded to Augusta from certain precincts may be eliminated from the count in whole or in part. Whether or not he further takes the position that the Governor and Council should be itself an investigating body, or whether it is merely a tribunal to pass on facts produced by the contestants, is not clear.

It seems to me that the allegations in the documents filed with the Governor and Council, which I have summarized above, show no sufficient cause for the exercise of any jurisdiction that the Governor and Council may have. In other words, Mr. Brewster does not make out a case on the documents filed, which justifies the Governor and Council in going ahead.

* * * * *

In short, as far as fraud is concerned, and quite irrespective of the right, power and authority of the Governor and Council to sit as a tribunal in this matter, it is my opinion that the papers as filed fail to make out any case for action within the principles laid down in *Opinion of the Justices*, 124 Me. 453 (1924).

Unless and in so far as fraud is definitely and specifically alleged, the defending party may properly urge that he has nothing to answer, and that the tribunal has nothing to go ahead on. The tribunal may properly rule that it will not hear and pass on such general allegations.

As to the mandatory provisions regarding secret balloting, the situation is not much different. . . . .

The allegations, however, fall far short of the situation in St. Agatha described in the questions submitted to the court in 1924.

In addition to fraud and lack of secrecy, there is only one other ground set forth for throwing out the entire vote of any precinct or precincts, and this is the allegations with reference to the failure of certain plantation officials to carry out provisions of law. Assuming that such transgressions would require the Governor and Council to eliminate the vote of the plantation where they occurred, it is sufficient for our present purpose to say that the general allegations in this respect in the original paper are not supplemented by any further documents.

It is, therefore, my conclusion that on the documents as filed the Governor and Council should take the position that if they have any jurisdiction whatever to inquire into the circumstances under which ballots were cast, no sufficient occasion is here presented for the exercise of such jurisdiction.

Supplementing the documents that have been filed

Of course the Governor and Council do not want to act on mere technicalities. If the contestant has additional data that he can set forth, which will justify a consideration of his case on the merits, he can, of course, amend or supplement his pleadings, and he should. I doubt if he has, or can get, any such data.

In this respect this department has independent data for testing the situation. As you know, on the basis of complaints that reached me after the state election I arranged for an investigation of the facts. Some of Mr. Brewster's friends assisted me with information. The reports of the twenty investigators as summarized by the attorney in charge, Mr. Gould, do not indicate that there was any conspiracy or other felony. There are perhaps inferences of serious wrong-doing; but one cannot prosecute for inferences. Breaches of the election laws by town officials are not felonies, although city boards of registration are subject to grave penalties for certain breach of duty. From Mr. Brewster's petition and the statements of his counsel one can judge that he has ascertained the same facts, and arrived at the same conclusion as this department. There were plenty of irregularities, but no felonies.

The problem of the Attorney General in that investigation was, of course, different from the problem of the Governor and Council if they have jurisdiction of a contest for election to Congress. The inquiry of this department was into conspiracy or other serious crime. Finding none I stopped. A tribunal with jurisdiction ultimately to determine who was elected might inquire into and be ruled by lesser irregularities. I do not believe it is for the Governor and Council to consider these any more than it was for the Attorney General.

In saying this, however, I do not conceal my concern at certain conditions which apparently obtain in the precincts examined. These conditions, which have apparently been handed down from the past, should be corrected by public opinion wherever they exist, and perhaps by legislation. Two wrongs do not make a right. After the election it is, however, neither for the Governor and Council nor for the Attorney General to interfere with the result as shown by the ballots which were cast.

The jurisdiction of the Governor and Council

Believing as I do that Mr. Brewster cannot make out any stronger case than he has, and therefore that by no possibility can he produce a case which would require further action by the Governor and Council, I might stop here, but to decide a case on insufficiency of pleadings is unsatisfactory. The problem has been argued, and should be considered on its merits. Have the Governor and Council any jursidiction anyway? I say "No."

I believe that the Governor and Council have no jurisdiction whatever to examine into the circumstances of the balloting in this election. Whether under any conceivable circumstances the Governor and Council would have the right to go behind ballots forwarded to the state house I do not need to say. Conceivably, a case of such clear, undisputed fraud might be made out that it would be an absurd miscarriage of justice for the Governor and Council to accept and count the ballots forwarded to Augusta. No such case can exist here.

Opinion of Justices, 124 *Maine* 453

If we take it as a case of the registration and voting of persons not entitled to vote; of illegal assistance; and of absence of some of the protections extended to secure the secrecy of the ballot,—we not only have, as we have already seen, a case which falls far short of the doctrine in 124 Me. 453, but we have a case to which 124 Me. 453 does not apply, because that was a case under the primary election statute, and not a case under the election law.

The questions presented by the Governor in behalf of himself and the Council to the Law Court in the Brewster-Farrington contest were received by a court composed of eight judges. One judge did not sit. Of the others four gave an opinion which required the Governor and Council to rule out certain of the votes in Ward 4, Portland, and all the votes in St. Agatha. Three of the judges dissented. These three point out, as the counsel for Mr. Brewster concedes in the oral argument, that under previous election laws in Maine, and generally throughout the country, the Governor and Council are but a canvassing board to receive the returns and to recount, if the law permits, the ballots, and can go no further. These three judges then show that the primary election law varies in no respect from the election law. They argue that since the election law has always been so interpreted, the primary law should be.

The four judges giving a majority opinion do not discuss this general premise, viz.: that under previous decisions the Governor and Council would have no such power. They could not discuss it; it was clearly law, and was conceded by Mr. Brewster's counsel in the present case.

What these four judges do say is that fraud is abhorrent, and that the Governor and Council "are made by the legislature the tribunal to pass upon the results in primary elections." From this they infer the power to inquire into the circumstances under which the votes were cast in certain places.

To be sure, in answer to another question these judges declined to rule whether the decision of the Governor and Council would be final (page 483), but nevertheless it is in my opinion plain from the opinion of the majority that the two guiding reasons for their decision are that specific, definite fraud was alleged, and that should the fraud be successful and the candidate benefitted thereby be placed on the primary ballot, no effective way of protecting the rights of the other candidate could be secured. The ballots must be printed for the September election. Any remedy by mandamus or otherwise would either be impracticable or cause great public confusion. Therefore, as Chief Justice Cornish stated to Mr. Brewster "any other result" (than the course the majority took) "would be unthinkable."

In 116 Me. 579, the judges, in ruling on referendum petitions, commented on the significant fact that there is no tribunal other than the Governor to pass on them. Hence, says the court, the Governor can inquire into fraud. The court speaks of the legislature as the tribunal which passes ultimately on the election of its members, and which can inquire into the circumstances of their election. The implication is clear,—since Congress may, it alone can.

In other words, the four judges giving the majority opinion adopted an exceptional and extraordinary expedient, changing as far as the primary law is concerned, and only as far as the primary law is concerned, the existing principles of law with reference to elections. An exception should only extend to the circumstances which causes it to exist. Those circumstances do not apply under the general election law, and particularly in the case of a member of Congress whose election is determined by Congress itself.

To be sure, the question before the Governor and Council is whether or not they should issue a certificate, but the value of the certificate when issued may well be taken into consideration. It is not a certificate of election which makes the holder an officer for all purposes de jure. It merely sends him down to Washington with a prima facie right to his office.

The re-enactment of the election law in the Revision of 1930 of course re-enacts it with much interpretation as the courts have given it; and an opinion of the Justices is a binding interpretation. But, the point is,—the Justices did not interpret the election law,—they interpreted the primary law,—and identical words used in two statutes

may have a different legal meaning, according to the circumstances to which they apply. A primary election to nominate a candidate is one thing; the election of a representative in Congress quite another thing.

That the majority did not carry their own rulings to a logical conclusion in all respects is shown by the fact that they did not authorize the Governor and Council to throw out the ballots fraudulently cast for any candidate who had not, within the proper period, discovered the facts and taken the point. If fraud is so abhorrent that it should by no possibility achieve its object, the logical conclusion would be that upon Mr. Brewster's discovering the fraud which apparently seated Mr. Farrington, all other candidates affected by the same fraud should also benefit or lose by the discovery of the same facts. This, however, the court would not permit. In other words, fraud in balloting *to a certain extent, under certain circumstances*, can be inquired into by the Governor and Council, but it is my opinion that these circumstances probably never exist where the result of a general election is in issue, and certainly are not made out either on the papers filed in this case, or under any circumstances that are reasonably likely to be shown in the third district election for representative to Congress.

What the Law Court would say, if interrogated again, as the Council has considered doing, of course I do not know. But, as far as I am concerned, I have no doubts of the conclusions I have reached.

Conclusion

Finally, then, it is my belief that the recount of the third district Congressional election is now complete, and that the duty of the Governor and Council is comprised in correcting the preliminary tabulation on the basis of the recounted ballots, and announcing the result accordingly.

ELECTION LAWS—POWER OF GOVERNOR AND COUNCIL

November 28, 1932

To Hon. Wm. Tudor Gardiner
Governor of Maine

You inquire what, in my opinion, will be the eventual situation as far as the Governor and Council are concerned if there should be a deadlock on affirmative votes proposed with reference to the recount of ballots cast in the third district for member of Congress in the recent state election.

This recount is now going on for the purpose of correcting the returns in accordance with R. S. ch. 8, sec. 55, if these returns are found erroneous. The Governor and Council tabulated the original returns in September and determined that a certain candidate appeared to be elected. The recount was invoked by a candidate who appeared to be defeated by the returns as thus tabulated.

It is my opinion that in the event of such a deadlock, and in the absence of any affirmative action by the Governor and Council as a result of the recount, the original tabulation stands unaffected by the petition for a recount and the recount itself. In such case the Governor and Council have not "found . . . erroneous" the original return, and no correction has been made therein.

I am further of the opinion that the person shown by the original tabulation to have been elected is accordingly entitled to a notification thereof by the Secretary of State in accordance with the next to the last sentence of the first paragraph of section 55, and that the Governor may properly direct the Secretary of State to issue this notification.

To be sure, this sentence says that the successful candidate "shall be declared elected." It has been and is the very proper practice for the Governor and Council to declare the election of the successful candidate at the conclusion of a recount, or at the expiration of the twenty days' period for filing petitions, in case no petition has been filed. This formal declaration by the Governor and Council is, however, it seems to me, merely a ministerial duty which does not affect the right to the office, and to a notification thereof by the Secretary of State to the person who was elected on the face of the returns as at first tabulated, if the tabulation stands unchanged.

Any other candidate has his recourse thereafter to other tribunals for the purpose of establishing his own right to the office as against the person who thus obtains the prima facie right to it on the basis of the original tabulation, and the Secretary of State's notification thereof.

FEES, FINES AND FORFEITURES

December 4, 1931

To Sumner P. Mills, Esq.
Judge Municipal Court
Farmington, Maine

You inquire with reference to the interpretation of P. L. 1931, ch. 189 and 252, which relate to the disposal of fines, forfeitures and costs in certain criminal cases in which the state highway police and inspectors are concerned. Your particular inquiry is as to what should be paid over to the State Treasurer when a member of the highway police accompanies the sheriff as a aide. Two objects were sought by the legislature in passing these acts, which were before the legislature in several drafts and redrafts at various times, and were the subject of some controversy both in committee hearing and in the senate.

One of these objects was to assure the county of one-half of the fines and forfeitures in certain cases which had previously been collected wholly by the state.

The other object was to assure the payment direct to the State Treasurer from the court of such sums as belong to the state by way

of fine or forfeiture, or are awarded for costs in favor of highway police officers. It seems to me that the two statutes were fairly adequate to accomplish these objects.

First, as to Chapter 189. By this chapter in the case of a complaint under ch. 29 of the Revised Statutes, viz.: the motor vehicle act, where the arrest has been made by a state highway policeman or inspector one-half of any fine or forfeiture collected shall be paid forthwith to the State Treasurer, together with that part of the costs which the court has taxed "for such member or inspector"; e. g., the fee for the arrest, and the witness fee.

The statute cuts out one definite kind of case for special treatment, viz.: motor vehicle cases where the arrest is made by a state officer. In these motor vehicle cases, and only in these motor vehicle cases, the chapter operates to give the state the foregoing; all the rest goes to the county in such cases, and as far as ch. 189 is concerned the whole goes to the county in motor vehicle cases when a state highway policeman or inspector has not made the arrest.

This chapter 189 makes definite, affirmative and explicit provision regarding a certain class of cases, and only a certain class of cases, viz.: cases under the motor vehicle act where there is a state arrest. To all other cases only a general reference is made. The one definite object of ch. 189, viz, dividing certain payments between state and county, is accomplished.

Secondly, as to ch. 252, this is a general statute passed the same day. If there are any inconsistencies between the two statutes ch. 189 should prevail within the definite territory which it aims to cover, viz.: certain motor vehicle cases. On the other hand, ch. 252 should prevail within the territory with which it is particularly concerned, viz.: assuring the payment direct to the state of any sums belonging to the state, including especially costs in favor of state officers, as costs in any cases whatever. The general provisions in each statute would be interpreted as being subject to and limited by the more explicit provisions of the other chapter if there were any inconsistency, but I doubt if there is. Ch. 252 is concerned to make sure that such costs as are awarded with respect to highway policemen and inspectors shall be paid to the state and not to the individual. Ch. 189 has adequately covered cases under the motor vehicle act where the policeman or inspector has made the arrest. This statute is consistent with ch. 189 in those cases, and covers to a certain extent some cases under the motor vehicle act where the arrest was made by some other person, and also covers all other criminal cases.

If the actual arrest in a motor vehicle case is made by someone other than a member of the state highway police or inspector, but costs are taxed in favor of such policeman or inspector as aide, or otherwise, and also if costs are taxed in favor of such highway policeman or inspector in any capacity in any case not arising under the motor vehicle act, then the money representing these costs so awarded should go into the state treasury.

The last sentence of ch. 252 requires in effect the payment "forthwith to the treasurer of state" of all sums coming into court "except those payable by law to the county." These sums, awarded in favor of state highway policemen or inspectors, are, by this very chapter, not "payable by law to the county," but belong to the state. Were they paid to the county the state would, of course, have its claim against the county contrary to one object which the statute sought to accomplish, and contrary, it seems to me, to the wording as it reads in the light of this legislative purpose.

It seems to me, therefore, that these costs now under discussion should be paid directly to the State Treasurer.

FEES, FINES AND FORFEITURES

April 5, 1932

To Hon. E. D. Hayford
State Auditor

Whether one-half or all the costs in favor of state highway policemen are to be paid to the state was not the primary inquiry in my letter of Dec. 4, 1931, to the judge of the municipal court at Farmington. On further consideration of that problem I am of the opinion that all these costs and not merely one-half of them belong to the state. The legislature was not concerned with dividing costs between state and county, but with dividing fines and forfeitures, and assuring the state treasury of getting the sums awarded for state police costs.

It seems to me that bail is a forfeiture and when collected in any case within the context of P. L. 1931, ch. 189 and 252, half belongs to the county and half to the state.

Under the law it is for the prosecuting attorney to collect defaulted bail. Unless and until he has collected it the liability of the county to pay over a portion of it to the state has obviously not accrued.

Similarly, there is no liability on the part of a judge or trial justice to pay over fines or costs imposed until they have been collected and paid to him. The payment of fines and costs is sometimes suspended under probationary arrangements.

I find no provision of law for the payment by the county to the state of costs assessed in favor of state officers which have not been collected by the county. As between a county and a city within its territory costs assessed in favor of city police officers are sometimes credited to the city in adjusting accounts between the county and the city, but I do not find any legislative intention that costs assessed in favor of state highway police are to be paid to the state by the county unless these have been paid in to the county treasury.

Fees of witnesses and officers who are entitled to receive for their own use costs assessed in a criminal case, are properly paid to them

from the county treasury, regardless of whether the costs so assessed have been actually paid by the convicted person. Costs accruing in favor of the state in respect to the state highway police seem to me to stand on a different footing.

NAPHTHA AND THE GASOLINE TAX

October 19, 1931

To Hon. E. D. Hayford
State Auditor

You inquire with reference to the taxability of naphtha under the gasoline tax act.

Sec. 1 of the act in classifying the "internal combustion engine fuel," which by sec. 2 of the act is taxable when "sold within this state," defines three kinds of "motor fuel," viz.:

(a) Gasoline.
(b) Benzol.
(c) Other products except kerosene and crude oil to be used in the operation of an internal combustion engine.

All sales of classes (a) and (b) are taxable. Class (c) is composed of two special products whose sales are never taxable, and of other products whose sales are taxable only under the special circumstances there specified.

This department has in the past, as you know, ruled that "naphtha" falls within class (c). Unlike kerosene and crude oil it is taxable if sold to be "used in the operation of an internal combustion engine", but unlike gasoline and benzol it is taxable only when so sold. Naphtha sold for cleansing purposes, not being an "internal combustion engine fuel" within the statutory definition, is not taxable.

Sec. 2 of the act provides for the rebate of three-fourths and "no more" of the tax paid,—

> "Upon such internal combustion engine fuels sold for exclusive use in motor boats, tractors used for agricultural purposes not operating on public ways or in such vehicles as run only on rails or tracks, or sold for use in stationary engine or sold for use in the mechanical or industrial arts."

This section applies only to taxable fuels; that is,—(a) gasoline, (b) benzol, (c) certain other products sold for the special use specified in the definition of the class. Three-quarters of the tax paid on such fuels is to be rebated in certain cases. The section does not affect the right of a tax payer to a refund of a mistaken payment.

Since naphtha sold for a purpose not specified in the definition of its class (e. g. for cleansing) is absolutely untaxable, the whole amount of any tax mistakenly paid on such naphtha should be refunded.

PAUPER SETTLEMENTS

April 1, 1931

To Grube B. Cornish, Secretary
Department of Public Welfare

Answering yours of March 25, I am of the opinion that the question of "settlement" is a matter of procedure rather than of substance. Our court has held that "settlement" is not a "vested status", *Augusta v. Waterville*, 106 Me. 394.

If this is so it would follow that the new law takes effect in all cases superseding the old law. The children about whom you inquire would therefore, take the mother's settlement under the new law.

PRIMARY ELECTION BALLOTS FOR COUNTY COMMISSIONER

April 16, 1932

To Hon. Edgar C. Smith
Secretary of State

I have your inquiry as to the arrangement of the primary ballot in a county where nominations are to be made for more than one county commissioner. The problem as you fully appreciate, is not without difficulties.

You refer to P. L. 1880, ch. 239, sec. 32, now incorporated into the revision of 1930 as ch. 92, sec. 2.

You also refer to the fact that when later the primary law was passed, no express reference to the method of nominating county commissioners was made, the first section of the primary law, now R. S. ch. 7 sec. 1, merely making a general provision.

It is unfortunate that the primary law, or the subsequent revisions of the statutes which have included both the above sections, did not resolve the ambiguity, as was done in the case of United States Senators, by R. S. ch. 7, sec. 7.

I understand that in practice your office has placed together in one bracket on the primary ballot those filing nomination papers for long term county commissioner as candidates against each other for the nomination for that term, and similarly in another bracket those filing for a short term. Your office has requested those who file nomination papers in such cases to specify which term they are seeking. Consistently, on the election ballot in September you have classed as separate offices each county commissioner vacancy with one nominee from each party in each case.

This practice conforms to the practice expressly provided for in the case of United States Senators, and is consistent with a legal theory that each county commissioner holds a different office, i. e.,

that the office of long term commissioner differs from the office of short term commissioner as much as the office of either differs from the office of sheriff. There are some effective arguments for this theory and practice, and I hesitate to express an opinion against it.

It does seem to me, however, that we are more nearly taking the statutes as they stand if we rule that the express provision of the election law rises superior to the mere implications of the primary law. The election law prescribes that in the case of county commissioners the designation between the long and the short term is to follow mathematically from the tabulation of the votes for county commissioners at the September election, and not from the deliberately expressed intent of the voters at that or the primary election or from any choice by the candidates themselves of the term they seek.

The only way to make sure that in accordance with the election law the candidate who receives the most votes in September will hold the long term and his runner-up the short term, is by bracketing together on both the primary ballot in June and the election ballot in September, all candidates for county commissioner without distinction between their terms of office.

Accordingly, on the primary ballot in June, all who file nomination papers for county commissioner should be in one bracket, with the direction to "vote for two"; and on the election ballot in September, the two of these persons who have received the highest votes in their party's primary should again, as nominees of their party, appear in one bracket, with the same direction to the voter.

It is of course true that a tie between the two nominees of a party is apt to occur at the September election, as was found to be the case when the federal Constitution had a somewhat similar provision for the election of president and vice president. Our election law, however, provides for that contingency. By R. S. ch. 92, sec. 2 above quoted, the Governor and Council in such case designate the respective terms of office.

Under the present practice it may well happen that in the primary the successful nominee for a short term may receive but a tithe of the votes given to unsuccessful candidates for the long term, and an almost accidental benefit may accrue to a candidate who is lucky in his specification of the term for which he seeks nomination.

Voters are accustomed to vote for several candidates in the same bracket in counties entitled to more than one senator and in towns and cities entitled to more than one representative. To extend this custom to apply to county commissioners, where more than one is to be voted for, it seems to me, is more in accordance with the law than to classify a long term county commissioner as the holder of an entirely different office from a short term commissioner.

In my opinion, therefore, the practice should be changed to conform to the foregoing suggestion.

REFERENDUM PETITIONS

June 1, 1931

To Hon. Wm. Tudor Gardiner
Governor of Maine

You inquire as to the date for calling a referendum election on an act passed by the legislature of 1931, in case petitions sufficiently signed by ten thousand voters are seasonably submitted to you under art. 31 of the amendments to the state constitution.

Your action in this respect is governed by the provisions of that amendment, and also by P. L. 1931, ch. 181, although the signing and filing of the petitions themselves are governed only by the constitutional amendment.

Your first duty is to determine whether sufficient petitions have been seasonably filed. Your procedure in this respect is governed to some extent by sec. 5 of the act above referred to. Should you determine that a hearing is necessary for the purpose of determining the validity of the petitions you should set a hearing in the senate chamber within one hundred days after the adjournment of the legislature. There is, however, no express time limit on the period within which you are to determine as to the validity of the petitions. The implication is that you will do it as soon as you reasonably can. Until you have so determined it is, of course, impracticable to set the date for the referendum election.

As soon as you have determined that adequate petitions have been seasonably filed you are to give notice thereof and of the time for the election.

The request that such election be held at a certain definite time may be made in the petitions, and if so should be conformed to if you find it practicable to seasonably determine the validity of the petitions.

If, however, no such election date is specified in the petitions you are guided simply by the provisions of the constitution. I understand that no election date is specified in the petitions now being circulated.

The constitution sets as one possibility for the election date the "next general election not less than sixty days after such proclamation."

There is no general election during the year 1931 to which this provision is applicable. The legislature has set an election for September 14th on the question of amending the constitution as to the number of state senators. It is obviously unlikely that you can determine the validity of the referendum petitions prior to July 16th, which would be a prerequisite to your setting September 14th as the date for the referendum election. Moreover, it seems doubtful to me whether an election on the sole question of a certain amendment to the Constitution is a "general election" within the meaning of the Constitution. To be sure, it is an election held generally throughout the state, but it is an election on a limited and special subject, not a stated regular election for general purposes. It is an election specially set by a special act for a special purpose.

The "next general election" subsequent to September 14th is the election to be held in September, 1932. The option will be yours whether to set this general election as the date for a referendum election, or whether to call a special election at a date not less than four months nor more than six months after your proclamation determining the validity of the requested referendum.

TAXATION OF SAVINGS BANKS

November 21, 1932

To Hon. Frank H. Holley
State Tax Assessor

Regarding the tax returns of savings banks, the question is whether profits accruing from day to day during the six months' period are to be included in the "undivided profits" which form one element of the tax basis. My answer is in the affirmative. It seems to me that the statute, as worded, contemplates that at the close of business on each day the capital, surplus and entire profits accrued and undistributed up to the close of business on that day should be totalled and averaged with the corresponding figures for every other day during the period.

As a matter of law I base this on the ordinary meaning of the expression "undivided profits"; viz,—that it means profits that have not been divided.

Confirming my view, I find in the reports three cases under federal tax laws.

The earliest of these cases is *Leather, etc. Bank v. Treat*, 128 Fed. 262 (1904). This case held that a bank's accumulating profit and loss fund is taxable as "surplus" under a tax on capital and surplus. The case makes this ruling in the face of a concession in the case itself that in the nomenclature of banks the term "surplus" does not include "undivided profits."

The second case is *Harder v. Irwin*, 285 Fed. 452 (D. C. N. Y. 1923). This case holds that "undivided profits" include accumulations between the close of the preceding year and the date of distribution.

The leading case is *Edwards v. Douglass*, 269 U. S. 204 (1925). Here the Supreme Court of the United States discussed in great detail the meaning of the expression "undivided profits" under the federal income tax law. The point at issue was whether certain dividends were paid from profits of the current year or from profits of a previous year. The rate of taxation varied accordingly. The contention of the government that "undivided profits" includes the current earnings of the year was unheld by the court. The taxpayer claimed that the phrase "undivided profits" had a technical meaning; viz,—that earnings determined by computing inventories and balancing books at considerable intervals of time, approximately at the end of the fiscal

year. One suggestion made by the court in a footnote is significant; viz,–that in modern accounting systems any corporation can ascertain its condition from its books almost from day to day, and certainly at exceedingly short intervals; it can determine its profits almost from day to day; it does not need to wait until the end of the year. The court says that the expression "undivided profits" does not have a definite, legal meaning as a bookkeeping term in corporation finance. The court rules that it does not necessarily mean an item on the corporation's books as distinguished from money earned but not distributed. In short, the court interprets the phrase as meaning "current undistributed earnings."

In view of these definite rulings by courts of exceedingly high authority, I can have no doubt as to the legal interpretation of the phrase as we find it in the statute under interpretation. For tax purposes the bank should compute its undivided profits from day to day and include them in the taxable basis.

I understand from talking with the treasurer of the savings bank which has raised the point that while he concedes that from the books of the bank it is possible to determine this item from day to day, yet for two reasons he doubts the application of the tax to these profits.

The first of these reasons is that "undivided profits" means the bookkeeping item set up by the bank at the beginning of the period and left untouched until the end of the period except for charging against it the whole or any part of any dividend as may be declared.

My answer to this suggestion is the citation of the three cases above mentioned. To adopt the treasurer's theory would not only be contrary to these three cases, but would also permit the bank, by bookkeeping notations to affect its tax payment.

His second suggestion is that the tax should be a tax on capital and not on current income. My answer is that this is a consideration which might appeal to the legislature in imposing or modifying the tax. We have to take the law, however, as we find it. It was proper for the legislature to fix such rate as it thought best and place it on such basis as it thought best as a means of valuing the franchise. The legislature did choose a basis made up of three items and a tax at one-half of one percent. Of course it may in the future change the basis, or change the rate.

As it stands, I can see no other alternative but to adhere to my interpretation of the statute as it stands.