

MAINE STATE LEGISLATURE

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STATE OF MAINE.

REPORT

OF THE

ATTORNEY-GENERAL

FOR THE TWO YEARS ENDING

NOVEMBER 30, 1908.

WATERVILLE
SENTINEL PUBLISHING COMPANY
1909

of the insurance laws. I should recommend in the ordinary course the practice which I think has been followed in your department, that in ordinary cases, you insist first upon a conviction of the broker for his misconduct in a court of competent jurisdiction. You will then have before you a record upon which you can act with certainty.

We are not prepared to say, when in some flagrant cases where you are satisfied that, from perhaps improper motives, prosecutions are not instituted, you may not have the power to thoroughly and carefully investigate these matters upon specific charges, reasonable notice and proper proceedings, and thereupon revoke a license for sufficient cause shown. Should a special case of this kind appear, we shall be glad to advise you concerning the same. For your general line of conduct in this matter, however, we advise as above, that the charges for violation of the law should first be determined by a court of competent jurisdiction before you undertake to revoke any license.

AUTOMOBILE INSURANCE.

Hon. S. W. Carr, Insurance Commissioner, Augusta, Maine:

DEAR SIR:—Relative to your inquiry as to whether or not a marine insurance company is authorized to insure automobiles against loss or damage by fire for an extended period, while upon the land and not in transit, and a long time after the transportation of the automobiles has ended, I have the honor to advise you as follows:

Under R. S., chapter 49, section 41, clause II, corporations familiarly known as marine insurance companies may be organized:

“To insure vessels, freights, goods, money, effects and money lent on bottomry or respondentia, against the perils of the sea and other perils usually insured against by marine insurance companies, including risks of inland navigation and transportation.”

I assume that the company you have in mind has for its purposes those enumerated in the clause II just quoted. The business under consideration, therefore, would seem to be, generally speaking, the attempt of a marine insurance company,

to do the business of an ordinary fire insurance company, so called, and for which purpose fire insurance companies may be organized, under said section 41, clause I, which latter clause reads as follows:

“To insure against loss or damage to property by fire, lightning or tempest on land.”

The legislature of this State, (see R. S., chapter 49, section 4,) has provided in substance a standard form of fire insurance policy and that no fire insurance company shall issue an insurance policy on property in this State other than those in the standard form as set forth in the statute, with some exceptions. The exceptions do not seem to cover the question before us as to the insurance of automobiles.

It is my opinion that the attempt of the insurance company in question, to carry on practically the business of a fire insurance company upon land, is in conflict with the spirit and intent of our law, and I should, therefore, advise against it.

ASSESSMENT CASUALTIES COMPANY.— REDUCTION OF RESERVE FUND.

Hon. S. W. Carr, Insurance Commissioner, Augusta, Maine:

DEAR SIR:—Relative to your inquiry as to what extent the reserve fund of assessment casualty companies on deposit in the State treasury can be reduced, I have the honor to advise you as follows:

It is my opinion that this fund cannot at any time be reduced below the amount equal to one assessment or periodical call upon all of its members, and that such an assessment refers to an assessment made to pay indemnity claims. In R. S., chapter 49, section 126, (near the middle) appears the following clause relative to the matter before us. It is as follows:

“Provided, however, that said fund shall not at any time be reduced below an amount equal to one assessment or periodical call upon all of its members.”

What is the meaning of the words “one assessment or periodical call upon all of its members”? In order to ascertain we must examine all of said section 126, which reads as follows: