

MAINE STATE LEGISLATURE

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July 15, 1910

To Pascal P. Gilmore, State Treasurer
Re: Temporary Loans

A statement of fact as been made (orally) to me from your office substantially as follows, according to my understanding:-

Under the provisions of Chap. 10 of the Resolves of 1909, a temporary loan during the year 1909, not to exceed \$300,000 was authorized and the Treasurer of State empowered to give notes in behalf of the State payable within three years from the date of the Resolve, or for such portions of the loan as might be required.

Query:- Would the State Treasurer be authorized to renew these notes at maturity by giving new notes in behalf of the State?

The language of the resolve in question is silent as to any such specific power in the treasurer. I know of no case, either Federal or State, where this precise point has been decided, and in the brief time at my disposal for examination I have not been able to find any ruling or dictum of court which covers the point at issue. In the absence of any statute or court ruling, either giving such a power or denying such a power to the treasurer, we are only left to such reasonable conclusions as might be drawn from the language of the Resolve, from the circumstances in the case, and from the common business customs.

From a reading of the Resolve, we gather the idea that the loan was authorized, the maximum amount fixed, and the maximum time of payment, within which the liability must be wiped out. It is not common practice in business to make a temporary loan for so long a time as three years. Again, the State might wish to place a shorter time upon the loan so that, if funds were available, the loan might be paid and interest avoided.

It is familiar law that the renewal of a debt like the one under consideration, does not change the nature of the debt and is, in law and in fact, the same debt or obligation in its renewed form. If the treasurer were authorized to hire \$300,000 on a maximum time of three years, and to give his note for a shorter time, it seems to me that to deny him the power to renew the loan, if the payee agreed thereto, would be to raise a question of too much technical nicety to be worthy serious consideration.

It is my view, therefore, taking into account the evident intention of the legislature and the well known customs of business, that any renewals of these notes which should be made by the State Treasurer with the consent of the payee, would be a legal and binding obligation of the State.

Warren C. Philbrook
Attorney General