

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

**This document is from the files of the Office of  
the Maine Attorney General as transferred to  
the Maine State Law and Legislative Reference  
Library on January 19, 2022**

May 9, 1919

To Hon. Frank L. Palmer, Bank Commissioner  
Bonds of a company which has leased its property to another

You ask whether or not the Bank Commissioner is authorized under the provisions of paragraph third, j, Section 27, Chapter 52 of the Revised Statutes to certify bonds of a company which has leased its property to another corporation provided the income received under the lease is sufficient to meet the statutory requirements.

By Section 27 of Chapter 52 R.S., as amended by the Public Laws of 1917, definite and specific designation of the classes and kinds of securities in which Savings Banks and institutions for savings may invest are set forth in detail. Such banks and institutions "are restricted to and hereafter may invest their deposits" in the securities so specified. It is the evident intent of this act to compel Savings Banks and institutions to safeguard the funds on deposit to the utmost and to permit investment only in such securities as are specifically named or call clearly within the classes of securities permitted to be accepted for investment. The spirit of this act is one of restriction and of restraint encouraging and demanding caution and prudence and conservative investment. The language of this act is definite, explicit and plain. There is no reason or excuse for giving a liberal interpretation and extending the clear explicit language by implication to any investment not specifically set forth in the act.

In the light of the evident purpose of the framers of this legislation to strictly limit the banks in their investments, the only proper course for the Commissioner is to, in all cases, confine himself within the limits of the language used. There are plenty of securities within the statute available for investment, and the benefit to be gained by the applicant or the house selling the security is not to be considered.

You will note that in paragraphs f, g, i, and j of subdivision Third of this section 27, the Legislature defined net income with great care and with an evident contemplation of an active, operating public service corporation. "Net income" is defined in paragraph i as the net earnings and income derived from the property covered by the mortgage in question, after payment of all operating expenses, maintenance charges, repairs, renewals, rentals, taxes, etc.

An examination of the other parts of this subdivision and of the entire section 27 discloses no authority for investment in the securities of a leasing corporation and no intimation that such a corporation was contemplated when the act was framed, but on the contrary, to my mind, furnishes strong evidence that active, operating public service corporations only are within the intent of the Legislature as expressed by the language of the law.

The securities of the Cincinnati Gas and Electric Company are not, upon the facts stated in your first question, in my opinion legal investments for our Savings Banks and institutions.

In your second question, you make inquiry as to whether a corporation which owns an artificial gas plant which it formerly operated, but has closed down and which has taken up the business of supplying natural gas to its customers, or rather, in fact, leases its plant and its lessee carries on a natural gas public service business, comes within paragraph j of section 27, chapter 52 R.S., subdivision Third, enacted as part of chapter 21 P.L. 1917.

I shall apply the same rule of construction as above. The statute makes no provision for a natural gas company. It specifically authorizes investment in the securities of a company doing an artificial gas business and also either the business of an electric railroad or the business of a light and power company. The fact that originally the company started to do an artificial gas business does not strengthen the situation in my mind. At the time the security is offered for investment, it is not doing an artificial gas business and has no intention of so doing except in case of emergency. The statute is explicit and it should be followed explicitly. I cannot advise that the mere possession of charter rights to carry on an artificial gas business and a history of having so done constitute a corporation which is now carrying on a natural gas business as an "artificial gas" company. I feel obliged to advise you that the Cincinnati Gas and Electric Company is not entitled to approval of its securities under paragraph j of section 26 as a public service corporation combining the business of an artificial gas company and the business of either an electric railroad or a light and power company.

Guy H. Sturgis  
Attorney General