

MAINE STATE LEGISLATURE

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September 5, 1931

To Honorable Sanger N. Annis, Bank Commissioner
Re: Bonds of Ogunquit Village Corporation

You inquire as to the legality for purchase by Maine Savings Banks of bonds issued by the Ogunquit Village Corporation. It seems to me that such purchase is legal.

These bonds are issued under R. & S. L. 1931, Chapter 83, which authorizes the issue but makes no express provision regarding enforcement of payment. The Ogunquit Village Corporation was created by P. & S. L. 1913, Chapter 203, which provides an income for the corporation from the proceeds of taxes collected by the Town of Wells inside the territory of the corporation.

R. S. Chapter 57, Section 27(IV-a) permits the investment of Savings Bank funds in bonds of any municipal or quasi municipal corporation when the bonds are "a direct obligation on all taxable property of the corporation". By Paragraph (d) of the same Article, securities of such corporation are not a direct obligation when the State law prevents the levying of sufficient taxes to meet the obligation. The question is, therefore, whether the bonds of the Ogunquit Village Corporation are directly enforceable against the taxable property of the corporation.

To be sure, neither of the Ogunquit Village Acts, above referred to, makes this express provision. Only current taxation from year to year is provided for. What happens if the village corporation defaults payment of principal or interest?

The answer is found in Paul v. Huse, 112 Me. 449. There the Law Court held, in effect, that bonds of the Camden Village Corporation are direct obligations of the village corporation enforceable on property therein. The Camden Village Corporation was created by P. & S. L. 1867, Chapter 266, with much the same powers as the Ogunquit Village Corporation. Its current income from year to year under that Act comes from taxes levied by its official directly on the property within its territory. The income of the Ogunquit corporation from year to year comes from money collected in its territory by a levy made by the officials of the Town of Wells of which it is a part. This is but a difference in detail, however, not affecting the substantial similarity between the two corporations in that each is a village corporation created for the same general purpose, and with the same general powers.

The Camden loan, passed on in Paul v. Huse, was authorized by Special Act of 1893, Chapter 407. Like the Special Act in the Ogunquit case the authority to borrow was given but no express provision as to enforcing payment except that the Ogunquit Act provides that bonds shall be paid serially by provision from the corporation funds.

The Ogunquit Act, like the Camden Act, did not expressly negative the application of the general statutes of the State and under

these as they existed at the time of Paul v. Huse and still exist, the Law Court held:

"The bonds represent the unsecured indebtedness of the municipality, and in case of non-payment the holder may sue the municipality, irrespective of the purpose for which they were issued, and all the goods and chattels of the inhabitants, and all the real estate situated therein, are subject to execution sale to satisfy the same."

Having, therefore, a judicial statement that the Camden bonds are a direct obligation on all the taxable property of that corporation, and it being clear that the Ogunquit bonds are issued by essentially the same sort of corporation under the same sort of legal authority, it seems reasonable to conclude that the Court would extend to the Ogunquit bonds the statement in the Camden case and rule that notwithstanding the differing taxation provisions of the two Acts, they are a direct obligation on property in the Ogunquit Village Corporation.

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Attorney General