

# MAINE STATE LEGISLATURE

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**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

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REPORT

OF THE

**Attorney General**

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for the calendar years

1931-1932

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 assumptions 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.

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#### 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.

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#### 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.