

# MAINE STATE LEGISLATURE

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May 21, 1940

Hon. Frank H. Holley  
State Tax Assessor  
State House  
Augusta, Maine

Dear Mr. Holley:

I have gone over the correspondence and records regarding the tax matter in St. Francis Plantation, concerning which you wrote me on May 18th. In my previous discussions of this case with you and Mr. McMonagle, the only point raised was the effect of a re-commitment of the taxes upon the time within which the liens should be filed. It has been, and still is, my opinion that the first and original commitment was the one contemplated by the statute and which should be used as the basis for deciding the validity of any lien, and while the statutory situation is not plain, I think we should insist on this interpretation until the courts have told us that we are wrong.

Now Mr. McMonagle, in his letter to you, raises another point. That is, that the records of the town meeting of March, 1937, do not show that the officers were sworn in open town meeting. Mr. McMonagle, however, states in his letter of May 14th, that the officers were actually sworn. It is my understanding that Mrs. Jones, who was plantation clerk in 1937, has retained that position since that time and is still clerk. Under the provisions of Section 10 of Chapter B of the Revised Statutes, she may amend her records under oath. In the case cited by Mr. Madean in 102 Maine, page 414, apparently the town clerk who sought to amend his records was no longer in office, and in that case the courts said that because he was not in office, he could not amend his records under oath, but intimated

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very strongly that if the clerk is in office at the time the amendment is made, that it would be proper.

My suggestion in this case is that Mr. McMonagle ask Mrs. Jones to amend her record of the town meeting of 1937 in accordance with the facts as he has stated them, and that if these two questions are the only troublesome ones in this case, that he hold insurance money until a court, in a proceeding brought by Mr. Kadeau, has given us a definite ruling.

I do not believe we would be justified in giving up the whole or any part of this money until the two points raised have been decided against us, which I do not believe will happen.

Very truly yours,

Franz V. Burkett  
Attorney General

FVB:OH