

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1941--1942

it is in my opinion improper for the State through its Farm Lands Loan Commission to pay out of trust funds amounts claimed due for taxes.

The State's mortgage was dated January 18, 1930. Foreclosure proceedings were started in August, 1932, and the equity of redemption expired in August, 1933. The first tax deed was dated July 1, 1935 and was a sheriff's deed based on action brought against Arthur L. Thayer in the Superior Court for Penobscot County, returnable at the September Term, 1934. This was to enforce payment of the 1933 tax. The writ was dated April 12, 1934, and the real estate was attached on April 20, 1934.

On the facts as given above, no tax could be legally assessed against the property after August, 1933. The sheriff's deed was for the collection of a tax assessed before the expiration of the equity of redemption. There are some defects in the procedure but not of such matter that we can feel absolutely certain the deed would be held invalid by the courts if the mortgagee had been someone other than the State. Under those circumstances, it is proper for the Farm Lands Loan Commission to pay the amount of that tax as consideration for a quit-claim deed from the town.

The State is not in any way liable for any taxes subsequently laid. However, the arrangement made to share with the town a part of the income as provided in the 1939 amendment is proper and should be continued.

Very truly yours,

FRANK I. COWAN
Attorney General

March 3, 1941

C. S. Robinson
Administrative Director
State Military Defense Commission
Augusta, Maine

Dear Sir:

Your letter of February 26th, containing copy of a letter from Mr. Gates, Chairman of the Board of Selectmen of Millinocket, is received.

In connection with the institution of condemnation proceedings at Millinocket Airport, a ruling is asked from the Attorney General as to whether the municipal officers of the town can proceed against the land, a part of which appears to be in unorganized territory,

without the permission of the county commissioners. Section 3 of Chapter 308, Public Laws of 1939, Special Session, provides that:

“***before a city or town shall take land for an airport or landing-field, or for the expansion of an airport or landing-field, by eminent domain as hereinbefore provided, it shall secure the consent of the municipal officers of the town or city in which such land is located.”

There does not appear to be any provision of our statutes which enables municipal officers of towns to institute eminent domain proceedings against land in unorganized territory.

Very truly yours,

SANFORD L. FOGG
Deputy Attorney General

March 5, 1941

Archer L. Grover, Esquire
Deputy Commissioner
Inland Fisheries and Game
Augusta, Maine

Dear Sir:

Unfortunately the statutes of Maine do not contain any provision for payment for damage done by deer or moose. The statute of 1935 may have been intended by its author to contain such a provision, but, if so, one sentence, or a part of a sentence, was omitted. The only procedure we have is for a claim to be presented to the legislature and to be put through the claims committee.

In the particular case of Glenda J. Hoy the insurance company can, if it wishes, have a resolve introduced at the next legislature for reimbursing it.

Very truly yours,

FRANK I. COWAN
Attorney General

March 5, 1941

Hon. Bertram E. Packard
Commissioner of Education
Augusta, Maine

Dear Sir:

I have your communication of March 4th, inquiring about the liability of towns and cities for injuries received by students taking part in defense training programs for which funds are furnished by the Federal Government.