

MAINE STATE LEGISLATURE

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STATE OF MAINE



REPORT

OF THE

ATTORNEY GENERAL



for the calendar years

1941--1942

September 19, 1941

The Farm Lands Loan Commission
State House
Augusta, Maine

Gentlemen:

Interest, in absence of contract, is a penalty allowed for the delay or default of the debtor. "Delay or default cannot be attributed to the government", according to 15 R. C. L. 17.

A State cannot be charged interest in the absence of express legislative authority.

The Courts have passed on this question many times.

Very truly yours,

FRANK I. COWAN
Attorney General

September 19, 1941

From:
The Attorney General

To:
William D. Hayes, State Auditor

In re Mr. Waite, Franklin County.

I believe I have already replied to your inquiry of August 29th, in regard to the fee book.

When you are called in for an investigation of the affairs of any department of the State or of any subdivision of the State or of any municipality in the State, one of your implied powers is that of seizing all books and records necessary for the performance of your duty, and keeping them under your control for such reasonable time as may be necessary for you to perform your audit. If the record happens to be something which is needed by the department, subdivision or municipality you should control it in such fashion that it will be available to necessary officials having to do with that department, subdivision or municipality for reference or for new entries.

FRANK I. COWAN
Attorney General

October 7, 1941

Hon. George E. Hill
State Tax Assessor
Augusta, Maine

Dear Sir:

In re School Taxes on Unorganized Territories

In my opinion, there should be no distinction made between any types of taxation assessed against property in unorganized terri-

tories, and, in the enforcement or collection of the tax, all State taxes, including any taxation for school purposes or road construction and maintenance, should be included in the lien action.

In connection with so-called deorganized municipalities, it is proper for you to include in your tax lien or in any other procedure that you use for the collection of State taxes, any amounts especially assessed for the purpose of debt retirement of the particular area against which the tax is assessed.

Very truly yours,

FRANK I. COWAN
Attorney General

October 7, 1941

Hon. George E. Hill
State Tax Assessor
Augusta, Maine

Dear Sir:

*In re Conveyance of Real Estate Owned by Municipalities which
have been Deorganized since Acquisition of such Real Estate*

In my opinion, under the various Acts deorganizing municipalities, the real and personal property of such municipalities vests in the State of Maine, but for the benefit of such municipalities. The language of Section 1 of Chapter 73 of the Public Laws of 1937 certainly contemplates the possibility of reorganization of such areas and, by implication when taken in connection with the language of Section 1 of the deorganizing statute, contemplates that any public property owned by the municipalities at the time of deorganization, shall be restored when such reorganization takes place.

Under the circumstances, it seems to me that a deed of real estate in such an area, the title to which was in the town prior to deorganization, should be executed in the name of the State of Maine, as grantor. It should recite the statutes providing for the deorganization of the particular municipality involved, and also Chapter 73 of the Public Laws of 1937. The deed should further recite that the "powers" of the municipality have been vested in the State Tax Assessor and that it is acting under those powers that the deed is given. Such powers include the power that the inhabitants of the town formerly had to convey or authorize the conveyance of property owned by said municipality. The deed should be signed by the State Tax Assessor acting in his capacity under said Chapter 73 of the Laws of 1937, as amended.

Very truly yours,

FRANK I. COWAN
Attorney General