

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1941--1942

Where, however, the employee is on a weekly basis, I do not see how we could properly do it. The time off is not carried in your department as a vacation, but as a leave of absence with pay. It is true that the leave of absence is oftentimes taken in fractions, but as I understand it, leave of absence is not a property right of the employee but is a privilege granted by the State. Under these circumstances I do not see where there would be anything left at the death of the employee that would justify you in directing payment to said employee's estate of any amount except such as might be still due for actual service performed by the employee.

Inasmuch as this query has come from your office instead of from the Controller, I assume that the question is purely academic so I am not sending a copy of this letter either to the Controller or to the State Auditor.

FRANK I. COWAN

Attorney General

From:
Frank I. Cowan, Attorney General

December 12, 1941

To:
E. L. Newdick, Dept. of Agriculture

I have your question in regard to the authority of the Administrator of an estate to protect the land by plowing or by burning cornstalks so as to stop the development of the European corn borer.

It is the duty of an Administrator to take such reasonable steps as will protect the estate of which he is, in a manner, trustee from depreciation. Thus, if a fire started in one of the farm buildings and burned a hole through the roof, it would be the duty of the Administrator to cover that hole so that rain and snow could not come in and cause further damage to the building. So, where a tenant has raised corn and the corn is infested with European corn borers and the tenant has left the premises without either protecting the land or burning the stalks, it is the duty of the Administrator to either plow the land or burn the stalks so that the corn borer cannot infest the land next year.

Any other course could very well result in the land being of very little value to the estate.

Attorney General

From:
Frank I. Cowan, Attorney General

December 17, 1941

To:
George E. Hill, State Tax Assessor

It has been called to my attention that the State is not carrying insurance on school buildings in deorganized areas. While it is true that, technically, the title to public property in deorganized towns falls into the State, nevertheless, the State should be regarded as holding said property as a quasi trustee.

Under our statutes, if a sufficient number of people move into the town to bring the population up beyond a certain point, the area is then entitled to be reorganized as a plantation or as a town, as the case may be. Title to such public property as has belonged to the town and has vested in the State by reason of the deorganization, immediately shifts to the reorganized plantation or town, as the case may be.

In my opinion, the State should carry insurance on school buildings, town halls, and other valuable buildings within the deorganized areas until it seems practically certain that there will be no reorganization within a reasonable time.

I understand that the State is a self insurer on all buildings valued at less than 10,000, and that the subject of insurance as above will create an apparent exception to this rule. Actually, it will not because if the State is holding the property as quasi trustee, the carrying of insurance on these public buildings will not be a violation of the rule.

Attorney General

From:
Frank I. Cowan, Attorney General

December 18, 1941

To:
George E. Hill, State Tax Assessor

In re School Funds in Deorganized Towns

Your memorandum of 12/16/41

Under the provisions of Chapter 4 of the Private and Special Laws of 1941 which relates to the surrender by the Town of Baring of its organization, and Chapter 25 of said laws in re Silver Ridge, we find in Section 2 a provision in regard to the disposition of school funds.

The provision in said Section 2 of Chapters 4 and 25 provides that all school funds deposited to the credit of said town and plantation and all funds unexpended for school purposes at the time when this Act became effective, out of amounts received by said town and plantation for school purposes or out of amounts paid by the State for school purposes, shall be paid by the person having custody of said funds to the Treasurer of State. The Section further provides that the amount so received shall be added to the unorganized township's funds as provided by Section 3 of Chapter 11 of the Revised Statutes.

In these two statutes, we find definite direction for the deposit of said funds with the Treasurer of State. The State Tax Assessor is not charged with any duty or responsibility in regard to custody or use of said funds. If the Department of Education has deposited with the State Tax Assessor in the past any of such funds, they have been so deposited through error and should be transferred immediately to the State Treasurer. The State Tax Assessor has no duty toward said funds and in case of any loss of any of said funds while in his custody, they would not be protected by his bond.