

MAINE STATE LEGISLATURE

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February 11, 1942

To William B. Oliver, Secretary, Maine State Soil Conservation Committee
Re: Rules and Regulations, Forms, Etc.

. . . You ask for an interpretation of the Soil Conservation Act because no one give you a proper legal opinion of the "adequacy" of these regulations and forms without an exhaustive study of the legal effect of every provision of the Act itself. As far as I have been able to learn, the Act was not drafted by the American Bar Association as most of our uniform acts have been. It was not subjected to the critical scrutiny of the National Association of Attorneys General, nor even submitted for intensive study by any of the four law professors who work on uniform acts for the American Bar Association. It was apparently hastily drawn and in many respects very poorly formed. I take it that the original came from Washington.

When the bill was before our Legislature I conferred somewhat with some members of the Legislature who were interested in it, and made several suggestions to eliminate parts that seemed to me could not pass the scrutiny of our courts. However, my assistance was at most very sketchy, an occasional few minutes in a tremendously busy period during the legislative session. During the same period I read critically more than two thousand proposed acts and resolves, besides attending to the not inconsiderable duties of this office.

This law is very drastic. It is not so much so as the original draft, but, even so, it is a departure from all our conceptions of the rights of individual owners of land. In any case where regulations are set up for the administration of a new law, the job must be very carefully done. This is especially true in regard to an act that runs counter to the general current of thought in regard to the rights of individuals. . . . If you want the law analyzed and regulations drawn so that the act will stand some chance of getting by the Courts, I say with all sincerity that you need the expert legal assistance of the ablest lawyers in the State. The above has been wholly in connection with your use of the word "adequacy" and your desire of an opinion from this department on that point.

I have read your regulations several times. I have checked them somewhat with the statutes. I have made marks on them to call your attention to certain fundamental principles which apparently have been overlooked. . . . If you will have the regulations re-written to take care of the questions that I have raised, which are of the utmost simplicity, we will then consider what we can do about the more important problems of your being able to make the statute work at all.

Frank I. Cowan
Attorney General