

MAINE STATE LEGISLATURE

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August 12, 1942

Treasury Department
Division of Loans and Currency
Merchandise Mart
Chicago, Illinois

Gentlemen:

In reply to your letter of August 5, 1942, initialed CR:C, addressed to the Treasurer of the State of Maine, you are advised that the information set forth in your letter cannot be strictly complied with for a number of reasons. By way of illustration as to one of the cases set forth by you, you indicate that bonds now issued in the name of the Treasurer of the State of Maine, State Military & Naval Children's Home Children's Account should be registered in the name of "State of Maine, trustee of the State Military and Naval Children's Home, etc." A simple glance at the Section of the statute referred to by you, together with the preceding Sections of the statute indicates that the State of Maine is not the trustee of the Home for the reason that the statute provides for the appointment of seven trustees. Nevertheless, the law provides for the handling of the funds by the State of Maine.

We have not reviewed the situation with respect to any of the other funds or accounts referred to by you as such a review is not necessary. In § Maine, page 481, the opinion of the Supreme Judicial Court of Maine distinguishes between a public office and public employment. While the statutes referred to by you refer to the Treasurer of State in terms which you have construed to mean that he was merely an administrative officer charged with the duty of investing trust funds, you will find that the Treasurer is a Constitutional officer of the State of Maine and that as a Constitutional officer of the State, his is an office which constitutes a grant and possession of a portion of the sovereign power. He is not an individual but is, in fact, an office. As

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such, and under the opinion of the Justices in 3 Maine 481, this office rules that the bonds referred to by you in your letter of August 5, 1942 are correctly registered in conformity with the Constitution and laws of the State of Maine and that the same need not and should not be re-issued in any other name.

Very truly yours,

John S. S. Fessenden
Deputy Attorney General

JSSF:gh