

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1941--1942

August 29, 1942

From:

John S. S. Fessenden, Deputy Attorney General

To:

J. Franklin Anderson, Deputy Bank Commissioner

In reply to your memo of August 25, 1942, you are advised that, in my opinion, prepaid shares of loan and building associations are not, under the laws of this State, legal investments for savings banks.

The statute enumerates the several investments which are legal for savings banks, among which investments prepaid shares of loan and building associations are not mentioned. Failure to enumerate such as a legal investment indicates that they should not be considered legal.

Deputy Attorney General

September 11, 1942

From:

John S. S. Fessenden, Deputy Attorney General

To:

Earle R. Hayes, Secretary
Employees' Retirement System

Subject: Salary Deductions—Superintendents of Schools

In connection with the Jointly Contributory Retirement System, you are advised that superintendents of schools in service as such prior to July 1, 1924, being by definition of the Legislature employees entitled to participate in the System and, by further definition of the Legislature, being entitled to an annuity and a pension upon retirement based upon earnable compensation, such individuals as become members of the System shall contribute from their compensation, regardless of the portion paid by the State and the portion paid by the town or towns, the full percentage provided for in the case of all employees participating in the System.

Deputy Attorney General

September 29, 1942

From:

Frank I. Cowan, Attorney General

To:

George E. Hill, State Tax Assessor

In re Abatement of Taxes by Local Assessors

R. S. Chapter 13, Sec. 73, as amended by P. L. 1939, Chapter 84, Sec. 2, provides as follows: "The assessors for the time being on written application stating the grounds therefor, within two years from the assessment, may make such reasonable abatement as they think proper" There is nothing, in my opinion, in Chapter 244 of the Public Laws of 1933, as amended, which conflicts with the

above quoted provision. The description of the tax lien notice as a "mortgage" does not change its actual nature. It is simply a method provided for collecting a tax and there can be a redemption within any time within 18 months from the time of filing the lien notice, which 18 month period must by statute begin not earlier than 8 months after the date of the assessment of the tax so that the minimum time under the tax lien procedure before any rights to title of the property become absolute, is 26 months. The provision for abatement within 2 years from the time of assessment cannot, then, conflict with any property rights that have been acquired because an abatement within the 2 year period would have exactly the same effect on a buyer under the lien procedure as would a redemption. In either case he would be entitled to have his money back with interest and nothing more.

The same argument holds true if the abatement is made after the 2 year period but before any rights have been gained by reason of the expiration of the 18 month period above referred to.

In my opinion, the assessors have the right to abate at any time within the 2 years on application or after the 2 years if the circumstances conform to the provisions of said Sec. 73, provided the abatement is previous to the expiration of the 18 month period set as a definite term for redemption from the so-called lien mortgage.

Attorney General

October 7, 1942

From:
The Attorney General

To:
Roscoe L. Mitchell, M.D.

I have your query as to whether two osteopaths can sign a commitment of an allegedly insane person to a State Hospital. P. L. 1939, Chapter 267 provides: "No person shall be declared insane or sent to any institution for the insane . . . unless . . . examined by two reputable physicians . . ." R. S. Chapter 23, Section 35 defines "physician" as, "A practitioner of medicine duly registered under the laws of Maine or of some other state".

R. S. Chapter 21, Section 64, provides that, a person who has been granted a certificate mentioned in section 63 shall be designated as an "osteopathic physician".

R. S. Chapter 21, Sections 60 to 70, inclusive, apply to osteopaths. Section 60 refers to "degrees in osteopathy"; Section 62 uses the expressions, "practice of osteopathy" and "practice osteopathy"; Section 63, having to do with qualifications, refers to "principles and practices of osteopathy". It calls for the issuance of a certificate giving one the right to "practice osteopathy". Section 64 speaks of the rights and privileges the certificate holder has to "practice oste-