

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1941--1942

Legislature in connection with such questions, and if the Legislature will pass an order instructing the attorney general to have the title in question investigated and determine whether or not the assessment was properly laid, I shall be very glad to comply at the earliest possible time.

Respectfully yours,

FRANK I. COWAN
Attorney General

March 5, 1943

To:

Alfred W. Perkins, Commissioner

Insurance

From:

Frank I. Cowan, Attorney General

Attorney General

Filing Fee for Financial Responsibility

I have your memo of February 23 enclosing a letter from Mr. A. W. Spottke and a memo to you from E. W. Sawyer, attorney for the National Bureau of Casualty and Surety Underwriters, said Sawyer memo bearing date 1-26-43.

On the statement of facts contained in your memo of January 7, I cannot agree fully with Judge Sawyer's statement, because there are apparently facts that he himself has not discussed. I do, however, now agree with that portion of his statement which occurs on page 2 of his memo and reads as follows: "Upon the filing of a certificate of financial responsibility the policy becomes, with respect to accidents thereafter occurring, absolute so far as injured persons are concerned. The exclusions are no longer applicable and acts or neglects of the insured afford the carrier no basis for refusing coverage."

The opinions of this office interpreting the financial responsibility law were very largely worked out during that hectic period in 1941 between the time of the adjournment of the legislature and the time the laws became effective, ninety days later. You were not here at that time, but I was handling three murder cases at once just at that time, besides trying to attend to the duties of this office. Many laws require interpretation. We worked out the best rules we could for the financial responsibility law, feeling that two or three years of experience in administration would determine whether or not we had adopted the best procedure.

My feeling is that you have gone off on somewhat of a tangent in your reasoning in connection with the six exceptions in R. S. Ch. 60, sec. 180. The general liability which is provided for in section 177 is dependent on no violation by the insured of the provisions of section 180; and that is, I believe, still the law in the State of Maine. If my assumption above is correct, the financial responsibility law starts in

where the law as laid down in Chapter 60, sections 177 and 180, leaves off, and there is, as Judge Sawyer claims, an immediate added burden on the insurer. Just when that added burden will attach is a question that the courts may eventually have to decide; but I feel safe in saying that the courts will say there is an added burden. If there is an added burden, then the insurance companies are justified in making an additional charge, and any opinions which I have given in the past intimating the contrary, must be modified.

In connection with the question of discrimination, your memorandum of January 7 intimates that there are contracts of insurance that are being made in connection with taxicabs and perhaps with other motor vehicles, where, after the contract is made, if an accident occurs, the company attempts to change the terms of the contract. This is something that Judge Sawyer has not covered in his memorandum, and inasmuch as there is a difference between his memorandum and yours on a statement of fact, I am accepting your statement as the correct one. On the limited information I have at hand, it would seem that to the extent that the companies are attempting to vary the terms of their contracts, with policyholders, they are doing something which the State should not approve.

Further information seems to be necessary in this office in order to arrive at a definite conclusion.

I am returning herewith the brief that was written by Judge Sawyer and the letter from Mr. Spottke.

FRANK I. COWAN
Attorney General

March 17, 1943

Ralph K. Wood, Esq.,
Presque Isle, Maine.

Re: Presque Isle Airport

Dear Ralph,

I have your letter of March 9th. The form of the deed is the same as that which the War Department has used in other circumstances. What my personal opinion may be in regard to the wisdom of the procedure proposed is immaterial. The demand that has been made on me contained the following language:

"The consummation of these transfers of title is contingent upon the sufficiency of the authority of the public officials to convey and donate these particular lands to the United States of America. Adequate information in this respect is not available in this office. Therefore, it is respectfully requested that you advise this office under what authority these lands were acquired by the public officials and their authority, if any, to convey and donate same to the United States of America."