

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1941--1942

be used by the Department of Education for a school, with the consent of the State Tax Assessor. There is no need of a transfer of title by deed. It is noted, in the first paragraph of your memorandum of June 14th that this church building is the property of the deorganized town "as near as can be ascertained at this time." If there is any question as to the title of this church building, that fact should be determined before any action is taken.

FRANK A. FARRINGTON

Deputy Attorney General

June 17, 1943

To:

David H. Stevens, State Tax Assessor

Bureau Taxation

From:

Frank I. Cowan, Attorney General

Your Memo of Feb. 16, 1943

I have before me your memo of February 16th asking in regard to title to property in deorganized towns on which tax liens have run 18 months.

1. If the tax lien is a good one (and we shall assume that it is good and leave the matter of its questionable value to some person who might claim it as a defense to our title) the town of Williamsburg had acquired title sometime in the year 1936 or 1937. If the first lien was not good, but a subsequent lien was good the town acquired title under a subsequent lien. The McLaughlin property, so called, being the property of the town after the expiration of the period of redemption would not be subject to tax by the State and the action of the State in advertising the property in November, 1942 was without valid effect and nothing passed under the deed to the Forestry Department.

2. If the lien action by the town of Williamsburg was invalid for the years 1935, 1936 and 1937, then no title accrued to the town by reason of the lien proceedings. In such case it was proper to assess a State tax and tax title would pass to State under deed to the Forestry Department in 1942.

3. When the town was deorganized under the provisions of Chapter 84 of the Private and Special Laws of 1939 which became effective on March 31, 1940, the title to all property of the town passed to the State to hold as trustee for the people of the community. If the McLaughlin farm had become town property by reason of tax lien no tax should have been assessed for 1940 against the property. If it did not become town property, then the State tax was properly assessed because deorganization of a town does not relieve private property of the burden of State taxation.

4. In your memorandum you do not say whether you laid the tax in your capacity as chairman of the Emergency Municipal Finance Board acting for the town, or whether the tax you speak of was the regular State assessment against the town. Perhaps you will want to clarify that point.

FRANK I. COWAN
Attorney General

June 17, 1943

To:	
William D. Hayes, State Auditor	Auditor
and	
Julian A. Mossman, Commissioner	Finance
From:	
Frank I. Cowan	Attorney General

Bonding of State Employees

Careful thought has been given to the Auditor's memo of June 10, 1943, and the Commissioner's memo of June 15, 1943, in regard to this general subject.

1. The liability of heads of departments is very materially reduced by the effect of P. L. 1943, Chapter 320. The amount of bond which you shall determine necessary from the heads of departments can be fixed accordingly. This, for instance, might apply to the State Tax Assessor, concerning whom a question has been raised, and might apply to the Forest Commissioner, inasmuch as under the new law neither will be liable nor will their sureties be liable for the acts of the subordinates of the principals.

2. Sufficient consideration, apparently, has not been given in the past to the duties of the members of the Highway Commission and the propriety of having these gentlemen bonded. It is our opinion that there is a real legal requirement for the bonding of all employees whose positions are such that they can obtain funds or discounts which should accrue to the State. This same argument applies to the chief of the Bureau of Purchase and to any other officials who are handling money or services or making valuable contracts in behalf of the State.

3. There is no liability on the State because of false arrests made by members of the State police, fish and game wardens, or sea and shore fishery wardens. If bonds have been given by these persons in the past to cover any liability on the State accruing out of false arrests, the money was not wisely spent. The bond should have been, and probably was, an individual bond of the policeman or warden protecting him from loss due to any false arrest of which he might be guilty. All constables and sheriffs and deputy sheriffs bond themselves as protection against false arrests and it frequently hap-