

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1943--1944

December 3, 1943

William D. Hayes, State Auditor

Interpretation of the Decision in Frankfort v. Waldo Lumber Co.
128 Maine 1

The opinion of Judge Barnes is very beautifully and powerfully written, and if the reader is not careful, he will read into the opinion matters that are not actually there.

Judge Barnes has clearly and succinctly stated the law. I think that nowhere would there be any question about the correctness of the legal maxims he has laid down. However, what he says in the Town of Frankfort case is not that taxes may be collected at any time and that the statutes of limitations do not run against the collection. What he says is that the tax lien cannot be lost, because it is a right of the State, and that if the statute of limitations has not run against the method of collection, the tax may be collected.

I believe it is generally accepted law that a tax lien is never lost. The legislature has set up certain limited times within which a certain act must be performed in order to collect that tax. A question has always existed in my mind as to whether or not the legislature cannot at any time enlarge the period or provide new machinery for collection of taxes, so that the tax collecting agencies can reach back into the remote past and enforce the rights of the State against owners of property who are at present immune because the period during which the collector can operate has expired.

FRANK I. COWAN
 Attorney-General

December 7, 1943

Laurence C. Upton, Acting Chief, State Police

Re Beano

Your memo of December 1st in regard to Beano enforcement, addressed to Commissioner Mossman, has been referred by him to me.

Section 5 of Chapter 355 of the Public Laws of 1943 (the Beano Law) was apparently inserted to take care of any extra expense that might fall on the State Police in the administration of said law. As a necessary expense, the employment of investigators is well recognized. The Chief of Police has full authority to employ such persons, to be paid out of the funds derived from Beano licenses.

In case the revenues from the licenses are insufficient to pay the expense of administration, recourse should be had to the Governor and Council for sufficient funds.

FRANK I. COWAN
 Attorney-General

December 7, 1943

Roscoe L. Mitchell, M. D., Director of the Bureau of Health

Subject: Venereal Diseases Statute

Our attitude must be that the first paragraph of Section 37 of the Public Laws of 1933, Chapter 1, as it appears in the 1943 amendment