

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1943--1944

contracts would have to be referred to the Department of Finance under the administrative code enacted in Chapter 216 of the Public Laws of 1931.

January 14, 1944

To: Fred M. Berry, Administrator Dept. State Liquor Commission
From: William H. Niehoff, Asst. Dept. State Liquor Commission
Attorney-General

Subject: Acceptance of Assignments

STATEMENT OF FACTS

Brookside Dist. Products Corporation assigned to Fidelity-Philadelphia Trust Company their accounts receivable from the State of Maine. The assignee now requests the State of Maine to accept this assignment and make its payments to them in accordance with said assignment. The question presented is whether or not an official of the State can accept this assignment.

OPINION

Assignment of debt or accounts receivable from one to another, with evidence by which they are ascertained, are valid and create a new contract between the assignee and the debtor. *Harrison v. Hill* 14 Me. 129. Likewise future fruits of existing contracts are assignable. *Farnsworth v. Jackson* 32 Me. 419; *Knevals v. Blauvelt* 82 Me. 458; *Wade v. Bessey* 76 Me. 413. When an assignment has been made and proper notice thereof given to the debtor he must treat with the assignor at his own peril. *Palmer v. Palmer* 112 Me. 152. The assignment operates as a new contract between the debtor and the assignee, commencing on notice, by which former becomes debtor of latter for amount equitably due. *Joy v. Foss* 8 Me. 456.

In the event an assignment is made and proper notice thereof is given to the State of Maine, the department owing the amount should withhold payment until approval for payment to the assignee is secured from the Attorney-General's Department.

No officer of the State can create a contractual liability on behalf of the State by accepting an assignment unless expressly authorized by Statute. I find no Statute authorizing anyone to accept assignment of accounts payable on behalf of the State.

Therefore the Fidelity-Philadelphia Trust Company should be notified that the State cannot accept the assignment of the Brookside Dist. Products Corporation.

June 14, 1944

Ernst, Gale, Bernays, Falk and Eisner
40 Wall Street
New York 5, New York

Re Liquor Dividends

Gentlemen:

Your letter of June 1st addressed to the Maine State Liquor Commission has been referred to me for reply.

Please be advised that under the provisions of the laws of Maine, no person, association, partnership or body corporate, other than the