

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1943--1944

January 12, 1944

Mr. Sherman P. Hoar
Chairman, Board of Assessors
Rangeley Plantation, Maine

Dear Sir:—

I have your letter of January 6th in regard to your special town meeting held on Christmas Day. Whatever may be our sentimental feeling in regard to the holding of a town meeting on a holiday and especially on Christmas, there appears to be no prohibition in the statute, and in the absence of such prohibition a meeting properly called and held on Christmas Day is legal. The courts of Maine, as far as I know, have not passed on this particular question, but numerous cases have arisen in other states. For the convenience of your attorney I refer you to 29 C. J., page 767, "Officials Acts."

Very truly yours,

FRANK I. COWAN

Attorney-General

January 14, 1944

David D. Stevens, Assessor

Transfer of Functions from the State Treasurer to the Tax Assessor

I am giving you this in writing for your files, although our frequent discussions in the matter have really covered the subject.

An arrangement may be made between the State Treasurer and the Assessor under which certain members of the Treasurer's Department can be located in the office of the Assessor so that the two department heads can conduct their study to determine what procedure for the collection of taxes is best for the State. However, those persons must continue, until there is new legislative action, as subordinates of the State Treasurer and under his sole direction and control. If employees in the Department of the Assessor are used to assist the persons so transferred, such employees must be shifted to the Department of the State Treasurer for the period during which the study is carried on. Thus only can the State be protected on the bonds of the Treasurer and of these employees.

FRANK I. COWAN

Attorney-General

January 20, 1944

Hon. Sumner Sewall, Governor of Maine

Subject—Incompatibility

I have been asked whether there is incompatibility between the office of Judge of Probate and that of Mayor of the City of Belfast. A careful study of the charter of the city is not informative. The office of mayor of that city seems to be almost purely honorary, and there is real question as to whether the office carries with it such authority that it can be classed as executive, so that there would be a conflict, as provided by our Constitution.

However, it is not necessary to answer the question. If the office of Judge of Probate and that of Mayor of Belfast are incompatible, the acceptance of the former office will vacate the latter. If, on the other hand, they are not incompatible, he can continue as Mayor of Belfast. In either case he becomes the duly constituted Judge of Probate.

Inasmuch as the office of mayor of Belfast is not a State office, the question whether he shall continue as incumbent of that position, if question arises, must be left to the determination of the courts.

FRANK I. COWAN

Attorney-General

January 25, 1944

James H. Register, Field Director
American Red Cross
A. P. O. 629
New York, N. Y.

Dear Sir:—

I have your letter of January 7th.

1. It is questionable whether the State of Maine would recognize a common-law marriage, although our courts have recognized the issue of such marriages and declared that such issue are legitimate.

2. Proxy marriages are not recognized under the laws of the State of Maine.

3. A resident of the State of Maine does not lose his residence through serving in the military service and does not need to return to Maine to sign a divorce libel. . . .

Very truly yours,

FRANK I. COWAN

Attorney-General

January 26, 1944

X, Esq.

In re: Change of purposes of Z Insurance Company

Dear X,

I acknowledge receipt of your letter of the 24th instant addressed to the Attorney-General and enclosing for approval by this department a certificate of the change of purposes of the above-named company, in and by which it voted to accept the provisions of Chapter 107 of the Public Laws of 1937 and also Chapter 19 of the Public Laws of 1939. I am herewith returning the same without approval, with the suggestion that the certificate to be forwarded here should recite, or it should appear from some other document, that the proposed action was taken by a vote representing a majority of the voting power and that the same was acted upon at a meeting, the call for which gave notice that such proposed action would be taken. From the certificate which you forwarded it appears that the action was taken at "a meeting as and for the annual meeting," and that it was attended by a quorum, and it