

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1943--1944

R. S. Chapter 60, Sec. 85, which provides for annual certificates for "every domestic insurance company" might seem at first glance to cover these domestic mutuals. However, the language of the second sentence of that section shows clearly that the provision was intended for stock companies. This is the more clear when we compare the language of Sec. 85 with Sec. 84. In Sec. 84 (1) domestic stock insurance, and (2) mutual life insurance companies, and (3) domestic mutual fire insurance companies, are particularly set forth; whereas, Sec. 85, as said above, can refer only to stock companies.

Public Laws of 1931, Chapter 101, Sec. 5, which amends R. S. Chap. 60, Sec. 84 cut out the direct reference to (1) stock insurance, (2) mutual life insurance, (3) domestic mutual fire insurance companies, and makes the section apply to "every domestic insurance company." This provides for a biennial examination, but does not go further. We have then, as the law stands, a provision in Sec. 84, as amended, for biennial examinations of every domestic insurance company, and in Sec. 85 a provision for annual certificates in the case of stock companies.

Public Laws of 1943, Chapter 148, ties in directly to the amended Sec. 84 and the original Sec. 85 of R. S. Chap. 60. The language in Chap. 148, above cited, "except that domestic mutual fire insurance companies writing on the assessment plan only are exempt from this requirement" can apply only to the original certificate of qualification. It can, moreover, have no connection with the words "for each annual renewal thereof \$20.00" since there is no provision in the Statutes requiring that domestic mutuals shall obtain annual certificates.

FRANK I. COWAN

Attorney-General

January 28, 1944

Guy R. Whitten, Deputy Insurance Commissioner

My attention has been called to an interpretation said to have been placed on the Public Laws of 1939, Chapter 2, by the Attorney-General's Department in the winter of 1942-43. Much as I hesitate to appear to over-rule any opinion given by an Assistant Attorney-General or by a Deputy, it seems to me that in this case I must do so.

I was myself on the Insurance Committee of the Legislature at the time when the amendment of R. S. Chapter 35, Sec. 55, which appears as Chapter 2 of the Public Laws of 1939 was written. I played a very considerable part in the discussions and in the rewriting of the insurance amendments which that Legislature enacted. There was a real reason for using the words "or collects premiums or assessments in the State;" and there was a real reason for using the expression "of the gross direct premiums for fire risks written in the State," and for omitting any reference to assessments in that part of the act.

The Legislature didn't intend that the assessments should be subject to taxation. We debated the matter at very considerable length in the Committee, and we believed that when we had the amendment in its final shape it provided that there should be a tax of one-half of one

percent of the gross direct premiums collected by any fire insurance company of whatever type collecting advance premiums on policies written in the State of Maine, and that there should be no such tax placed on deferred premiums, commonly called assessments.

I believe that the error in the opinion which I am told was issued from the Attorney-General's office was due to the fact that the Deputy in rightly construing an assessment as a deferred premium failed to note that the Statute in question as worded can refer only to advance premiums.

FRANK I. COWAN
Attorney-General

February 2, 1944

J. A. Mossman, Commissioner of Finance

Funds of State Liquor Store in Madawaska

I have your memorandum of January 31st. Although technically the funds of the State Liquor Store in Madawaska become subject to the control of the State Treasurer at the moment they are received in the store, the practical matter of transmission must be considered in applying the provisions of Chapter 192 of the Public Laws of 1943. Under the circumstances existing, the Royal Bank of Canada, Edmundston, New Brunswick, may be regarded as one of the essential steps in transmission of funds so as to place them directly under the control of the State Treasurer. My understanding is that the money will be deposited during banking hours in the Royal Bank of Canada, there to be credited to the Northern National Bank of Presque Isle, which, according to the manager of the Edmundston Branch of the Royal Bank, is carrying an account at said branch in U. S. dollars. Presumably, the ideal method of procedure would be for the manager at Edmundston to wire the Northern National Bank at Presque Isle as soon as the cash is received in the branch bank, so that the entry in favor of the State of Maine could be made on the books of the Northern National Bank on the same day that the money is desposited. The wire, of course, should be sent collect, and the receiving bank should deduct the charge therefor from the deposit. If a wire report is impracticable, you will be justified in approving a report by mail from the branch of the Royal Bank of Canada to the Northern National Bank, which is to have the effect of setting up the account as at the earliest practicable moment as a deposit in the Northern National Bank.

FRANK I. COWAN
Attorney-General

February 2, 1944

F. K. Purinton, Executive Secretary, Executive Department

I have your memo of January 28th inquiring whether the members of such boards as the Maine Military Defense Commission must qualify by taking oath and filing certificates with the Secretary of State. The provision in regard to this is found in R. S. Chapter 2, Section 56:—

“Every other person elected or appointed to any civil office shall take and subscribe the oath before any one member of the council,