

MAINE STATE LEGISLATURE

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January 28, 1944

To Guy R. Whitten

Deputy Insurance Commissioner

~~From Frank I. Cowan~~

~~Attorney General~~

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

~~FIG-18~~