

# MAINE STATE LEGISLATURE

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STATE OF MAINE

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REPORT

OF THE

ATTORNEY GENERAL

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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

State Liquor Commission can import spirituous or vinous liquors into this State except an individual may transport into this State spirituous or vinous liquors for his personal use, in a quantity not to exceed three quarts. The Commission has no authority to permit importation in violation of this law.

An individual desiring to have liquor delivered to him in the State of Maine from outside the State can only accomplish this with purchase order through the State Liquor Commission. In your particular set of facts, it would be necessary for the individual to place an order with the State Liquor Commission for this liquor. The liquor would have to be delivered to the warehouse of the State Liquor Commission at Portland, Maine, by the duly licensed vendor or manufacturer. The individual could then receive this shipment of liquors from the State Liquor Commission upon payment of all the charges of transportation plus 61% added onto the cost price of the liquor plus the mark up.

WILLIAM H. NIEHOFF

Asst. Attorney-General

June 30, 1944

To: James H. Christie, Director      Dept. State Liquor Commission  
Enforcement Division

From: William H. Niehoff, Asst.      Dept. State Liquor Commission  
Attorney-General

*Subject: Witness Fees*

Under date of June 26th your memorandum requests opinion as to whether or not inspectors are entitled to receive fees in criminal cases in which they appear either as the arresting officer or witness.

Chapter 247 of the Public Laws, enacted at the Special Session of the Legislature in October 1937 (repealing Section 24 of Chapter 237 of the Public Laws of 1937) among other provisions defines the powers and duties of inspectors as follows: " \*\*\* They shall have the same powers and duties throughout the several counties of the state as sheriffs have in their respective counties in connection with the laws pertaining to the sale, possession, manufacture and transportation of intoxicating liquors and the conduct of drinking houses and tippling shops."

Section 4 of Chapter 126 of the Revised Statutes of 1930 provides for the fees due sheriffs and their deputies in criminal cases. It, therefore, follows that where the inspectors have the same duties and powers as sheriffs, they have the same right to fees in criminal cases as sheriffs and deputies. Costs in criminal cases are taxed to the respondent on conviction and may become a part of the sentence. The respondent is not entitled to have credit on these costs because the officer making the arrest, etc. is paid a salary by the state.

Inspectors being on a salary basis are not entitled to keep these fees personally. All fees coming to an inspector in criminal cases in connection with the discharge of their duties should be immediately turned over by him to the Chief of the Enforcement Division who shall transmit them for deposit to the State Treasurer.