

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1943--1944

- B. Such a transfer must of necessity increase the amount allocated to the transferee. R. S. c. 2, §117, does not take care of this particular transaction but P. & S. 1943, c. 87, §(v) "for extra administrative costs not anticipated in the budget" does take care of it. . . .

FRANK I. COWAN

Attorney-General

October 24, 1944

Harold I. Goss, Secretary of State

You inquired orally with relation to incorporation fees payable to the State when two or more corporations merge or consolidate under Chapter 56, Section 63.

It seems to me that when one of the constituent corporations is to remain as the consolidated company, into which the others merge, then if the capital stock of this surviving corporation is increased by the agreement of consolidation, the fees payable on such increase are to be computed in accordance with Section 48 of said chapter.

On the other hand, if a new corporation is formed which becomes the consolidated company, the fees are to be computed in accordance with Section 10 of said chapter.

See Fletcher, *Cyc. Corporations*, Vol. 15, page 70, section 7071; *Chicago & E. I. R. Co. v. Doyle*, 256 Ill. 514.

ABRAHAM BREITBARD

Deputy Attorney-General

November 9, 1944

Hon. Sumner Sewall, Governor of Maine

Central Maine Sanatorium—Atwood title

I have had a search made of the title of land owned by Willard K. Atwood in Fairfield, across which the State of Maine maintains a sewer pipe from the State Sanatorium. There seems to be nothing of record in regard to this pipe line. It is possible that a verbal license may have been given to some one at some time to put the line through; but, if so, this office has found no memorandum on the subject, and inquiry in the office of the Commissioner of Institutional Service fails to disclose any such memorandum. The Commissioner reports that he has made diligent inquiry and can learn nothing about such a license.

The sewer was authorized in Resolves of 1917, Chapter 9. Bids were obtained and the sewer installed in 1918. In theory, title of the State is now good by prescription, since we have used the land for purpose of a sewer for more than twenty years. It is difficult to believe that the State would place a long sewer pipe across land in which it had no right. The reasonable presumption is that there was a grant which has been lost. The law presumes the same thing. I see no reason why the State should do anything about the matter.

FRANK I. COWAN

Attorney-General