

MAINE STATE LEGISLATURE

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November 10, 1944

To Hon. Sumner Sewall, Governor of Maine
From Frank I. Cowan, Attorney General

Auditor Hayes called to my attention a few days ago that there had been discovered in the office of the State Treasurer three old bonds of the State of Maine:

1. One in the amount of \$50,000 (the Abner Coburn Fund for the Augusta State Hospital);
2. One for \$118,300 (Land Grant Fund for the University of Maine);
3. One for \$100,000 (the Abner Coburn Fund for the University of Maine.)

A memorandum sent to me by the Auditor states as follows:

"These bonds were found in October 1944, in an envelope in the Treasurer's vault, labeled 'Non-negotiable bonds --- these to be burned --- act of Legis.' The envelope had been previously opened when now first found."

In my Supplemental Report on the State Trust Funds, dated August 4, 1932, I spoke of these Bonds. I had previously called the attention of Governor Gardiner to the fact that it is not proper for a trustee to borrow the money of the beneficiary and give his own promissory note therefor, and that what is not legal for the individual is not morally correct for a State.

In 1939, by Chapter 66 of the Public Laws, Chapter 47 of the Resolves of 1917, Chapter 89 of the Public Laws of 1917, and Chapter 142 of the Public Laws of 1919 were repealed. This Resolve and these two Public Laws were the acts authorizing the issuance of the above enumerated bonds. By Section 2 of the 1939 Act, the Governor and Council were authorized "to destroy in the presence of the treasurer of state the three unnegotiable state bonds cancelled by the passage of this act."

Apparently through some oversight or for some other reason, the Governor and Council failed to act on this authority. Certainly these promissory notes of the State of Maine should not remain outstanding, even though one reads as a debt of the State to the trustees of the Augusta State Hospital and the other two read as debts to the trustees of the University of Maine, and the documents are not negotiable.

P. L. 1939, Chapter 66 is still in effect, and the Governor and Council have full authority to destroy these documents as provided by that statute, although the statute is purely directory and any form of destruction is proper.

It seems to me that it might be wise to have a record made by the Secretary of State that the bonds have been destroyed, as provided by the statute.

Frank I. Cowan
Attorney General

FIG:c
CC: Secretary of State; Auditor.