

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1945-1946

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October 3, 1946

To Alfred W. Perkins, Insurance Commissioner

Receipt is acknowledged of your memo of September 26th. The subject of your inquiry is whether the assignee of a fire insurance policy in a mutual company where the insured has given a premium note in accordance with Section 77 of Chapter 56, R. S. 1944, should be required on transfer of the policy to execute his own note in accordance with the above section.

The specimen policy which you have submitted is the statutory form of fire policy and contains on the back thereof an assignment whereby the interest of the insured in the policy, as owner of the property insured, is transferred to the assignee whose name is to be written in the blank space immediately followed by this clause: "who assumes all the obligations of the insured." In the lefthand corner appear the printed words, "Assented to:" but it is not quite clear whether that refers to the insurance company or the assignee, although it would seem that these words refer to the secretary signing on behalf of the company, as there is no line underneath these words for the assignee to sign. Without the written assent of the assignee, any assumption of the obligations of the insured that would arise would have to be implied from his acceptance of the policy.

I feel that a strict compliance with the statute would require that he execute his own note, since Section 77 above referred to provides, "The insured, before receiving his policy, shall deposit his note. . ."

The assent to the transfer to the assignee is a new contract with him. Consequently, the provision of the statute requiring the deposit of the note is applicable to him, as he would be then receiving the policy which is the contract between himself and the company.

ABRAHAM BREITBARD
Deputy Attorney General

October 8, 1946

To George J. Stobie, Commissioner of Inland Fisheries and Game
Re: Gift of Land

Your memo of September 27th received. This relates to an offer by Owen C. Mann, who desires to make a gift to the State of 400 acres of timberland. This, you say, would be desirable land as a game management area, and you refer to the Eighth Biennial Revision of the Fish and Game Laws, Chapter 33, Section 14, which authorizes the Commissioner to accept, by gift or devise for the benefit of the State, land to be used as a game management area.

It is our opinion that if you decide that this land is desirable as a game management area, you would have a right to accept the gift under the section above referred to, although I would suggest that you submit the

matter for approval to the Governor and Council, in view of Section 15 of Chapter 12, which provides that the Governor with the advice and consent of the Council is authorized to accept in the name of the State any and all gifts, grants or conveyances to the State of Maine.

The gift under consideration being to the State of Maine, of course, I think it would be proper to have the approval of the Governor and Council in accordance with this provision.

ABRAHAM BREITBARD
Deputy Attorney General

October 28, 1946

To Hon. Horace Hildreth, Governor of Maine

In regard to the situation relating to the disability of one of your Executive Council, there is nothing that can be done about same.

The Constitution provides that the Council shall be chosen biennially the first Wednesday of January, by joint ballot of the Senators and Representatives in convention; and vacancies which shall afterward happen shall be filled by the Governor with the advice and consent of the Council within thirty days from said vacancy, and he must be from the same district in which the vacancy occurs, and the oath of office shall be administered by the Governor, and the new Councillor shall hold office until the next convening of the legislature.

Inasmuch as there is no vacancy on the Council and there is no provision in the Constitution providing for the taking care of the disability of a Councillor, there is nothing that you can do except await the convening of the next legislature for a new Council.

In case Mr. should resign, you could exercise your constitutional authority and appoint a Councillor from his district to serve until the next legislature convenes.

RALPH W. FARRIS
Attorney General

October 28, 1946

To David H. Stevens, State Assessor

I have your memo of October 22nd relating to the interpretation of the second sentence of Section 143 of Chapter 14, R. S. 1944, as amended, which reads as follows: "from the average amount of deposits, reserve fund, and undivided profits so returned by each bank there shall in each case be deducted an amount equal to the value so determined of United States obligations, all bonds, notes, and other obligations issued after the 1st day of February, 1909, . . ." etc. You state in said memo that some banks have made FHA loans. It is the practice of the banks to have the borrower give a mortgage and pay a certain fixed amount each month to the bank. These payments are credited to the borrower's escrow account, which account is charged: once a month, the amount to be applied to the loan and the month's interest on the unpaid balance; once a year for the taxes, and once every two or three years for the insurance.