

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1947 - 1948

The question in your letter cannot be answered in the affirmative or the negative without some explanation. When contracts are let out by the town for snow removal, even though they are approved by the State Highway Commission, the employer would be the town or the particular individual who had taken the contract, and employees would not be entitled to payments by the State in case of accident within the meaning of the Workmen's Compensation Act. However, if the employees engaged in snow removal are on the State Highway Commission payroll and under the supervision of the State Highway Commission through its supervisors or foremen, then they would be entitled to the benefits of the Workmen's Compensation Act, as employees of the State.

One of these cases went to the Law Court in 1927. . . In that case the Commission awarded compensation to the widow of an employee who was killed in a gravel pit in the City of Belfast, while engaged in the construction of a third-class highway. The City of Belfast appealed, contending that the employee was working for the State Highway Commission rather than the City of Belfast. In this case, of course, the city was entitled to receive funds from the State for the purpose, and the location of the highway was approved by the Highway Commission, in conformity with the old statute of 1919, which has now been amended. The Court held that the employee was in fact hired and paid by the City of Belfast, and the work was being done by the City of Belfast, notwithstanding the fact that it received reimbursements from the State Highway Commission and the highway was subject to approval by the Commission.

I believe that this reasoning would apply to the snow removal operations, unless the State Highway Commission carried the employees on its payroll and had direct supervision of the work of snow removal, and not merely approval.

RALPH W. FARRIS
Attorney General

September 30, 1948

To Hon. Frank S. Carpenter, Treasurer of State
Re: Investment of Bridge Funds

I received your letter of September 29th, requesting a ruling on the following questions:

"1. Does the Treasurer of the State have control of investing the funds of the Waldo-Hancock Bridge, and if so, what board approves this action?

"2. Does the Treasurer of the State have control of investing the funds of the Kennebec Carlton Bridge, Bath, Maine, and if so, what board approves this action?

"3. Does the Treasurer of the State have control of investing the funds of the Deer Isle-Sedgwick Bridge, and if so, what board approves this action?

"4. If the Treasurer of the State does invest these funds, what are considered legal investments?"

In answer to Question #1, I will say that the Waldo-Hancock Bridge was incorporated under Chapter 126, P. & S. L. 1929. Section 6 of said chapter provides:

“All moneys collected as tolls shall be regularly deposited by the directors in some bank or trust company designated therefor by the governor and council, and on the first secular day of each month the balance so on deposit shall be transmitted by them to the state treasurer. All rentals shall be paid direct to the state treasurer. From the funds so received the state treasurer on warrants signed by said directors and approved by the governor and council and by the state auditor shall pay all bills for the maintenance, upkeep, repairs and operation of said bridge and shall also pay the interest on the bonds as they come due, any balance shall be held by him as a separate fund for the retirement and payment of the bonds hereinafter provided for.”

Section 11 of Chapter 15, R. S., as amended by Chapter 22 of the Public Laws of 1945, provides that when there is money in the treasury which in his judgment is not needed to meet current obligations, the Treasurer may with the advice and consent of the Governor and Council invest such amounts as he deems advisable in bonds, notes, certificates of indebtedness, or other obligations of the United States of America, which mature not more than 1 year from the date of investment.

In my opinion you can invest said funds of the Waldo-Hancock Bridge under the general statute.

In answer to Question #2 I will state that the Carlton Bridge was incorporated under Chapter 89, P. & S. L. 1925. Section 6 of said bridge charter contains the following:

“From the funds so received the state treasurer on warrants signed by said directors and approved by the governor and council and by the state auditor shall pay all bills for the maintenance, upkeep, repairs and operation of said bridge and shall also pay the interest on the bonds as they come due, any balance shall be held by him as a separate fund for the retirement and payment of the bonds hereinafter provided for.”

Therefore in my opinion you can invest said funds of the Carlton Bridge under the provisions of Section 11, Chapter 15, R. S.

In answer to Question #3, in re investing the funds of the Deer Isle-Sedgwick Bridge, I will say that said bridge was incorporated under Chapter 88, P. & S. L. 1935. Section 9 of said chapter provides:

“The trustees shall regularly deposit all sums so collected, and shall, on the 1st secular day in each month give to the treasurer of state the monthly balance on deposit with an estimate of the charges for the upkeep, maintenance, repairs and operation of said bridge and shall, in each 6 month period, certify to the treasurer of the State of Maine such sum as they may have on hand beyond the charges necessary for maintenance, upkeep, repairs, and operation, to apply the same to the interest on the debt, and the payment of principal and the retirement of bonds, and any additional funds necessary for maintenance, interest and the retirement of bonds shall be furnished and paid by the state of Maine.”

Section 10 of said Chapter 88 provides that when all the bonds are retired and bills paid, such bridge shall cease to be operated as a toll bridge and shall, thereupon, be a free bridge, the property of the State of Maine, to be maintained by the State, and the trustees shall be discharged and the Bridge District terminated. Therefore in my opinion you have no authority to invest the funds of the Deer Isle-Sedgwick Bridge, because they are technically in the hands of the trustees and not in the hands of the Treasurer of State for investment.

Finally you ask if the Treasurer of State does invest these funds, what investments are considered legal.

Bonds, notes, certificates of indebtedness, or other obligations of the United State of America, which mature not more than 1 year from the date of investment, as provided in Section 11, Chapter 15, R. S., above cited.

RALPH W. FARRIS

Attorney General

October 6, 1948

To Mrs. Marion B. Stubbs, Librarian, State Library

I have your two letters of September 30th, one of which relates to the provisions of Section 22 of Chapter 38 of the Revised Statutes, which provides for the distribution of records of vital statistics to certain institutions and officers and provides that the remainder shall be placed in the State Library "for exchange or library use." You inquire about the use of the words "exchange or library use," and state that after the distribution permitted by law there are a great many copies of these publications remaining for which you have no room and which you do not need for library use.

I would not throw them away without petitioning the Committee on the Destruction of Old Records for permission to do so.

In regard to your question relating to the interpretation of Section 29 of said chapter, which provides that the officers of each free public library shall send annually to the State Library a list of all books and documents received from the State Library and a list of all books and documents purchased from the State stipend, and further provides that the State stipend shall be withheld unless such report is rendered before May 1st, all that I can say in regard to this section is that it is on the statute books, has never been amended or repealed, nor has any decision been rendered by our courts interpreting its provisions. What I should do, if I were in your position, would be to have the libraries furnish you with the post card forms supplied by you at various times during the year and keep those on file. If you care to make a change in the procedure of your office and require the officers of every public library to submit a list of all books purchased with the State stipend during the preceding year and of all books and documents received from the State Library, of course you can do so, as that is what the law provides; and if they should refuse to render said report, the aid from the State to free public libraries could be withheld until they did file such report. It seems to me that this is a matter of administration, rather than one for interpretation. The statute is very plain and needs no interpretation.

The answer to your question in the last paragraph, "Is it the duty of the State Librarian to require such list under the present law?" is, Yes.

RALPH W. FARRIS

Attorney General