

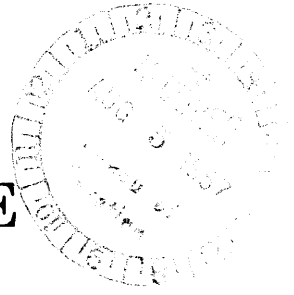
MAINE STATE LEGISLATURE

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STATE OF MAINE



REPORT
OF THE
ATTORNEY GENERAL

for the calendar years
1955 - 1956

program submitted by the head of each department and agency of State Government shall both be so prepared as to show specific amounts for their departmental expenses.

In interpreting statutes relating to a particular subject, all laws having reference to that subject should be read together. Section 22 of Chapter 16, R. S. 1954, in our opinion provides sufficient authority for the Governor and Council to make a transfer of funds between the several categories now required by statute to be set out in appropriation bills and work programs. This section reads as follows:

“Transfer of unexpended appropriations on recommendation of state budget officer. — Any balance of any appropriation or subdivision of an appropriation made by the legislature for any state department, which at any time may not be required for the purposes named in such appropriation or subdivision may, upon recommendation of the department head concerned and the budget officer, be transferred by the governor and council, at any time prior to the closing of the books, to any other appropriation or subdivision of an appropriation made by the legislature for the use of the same department for the same fiscal year.”

It appears that this section of law was enacted in 1945 with the intention to govern just such a situation as will exist under the new law.

FRANK F. HARDING
Attorney General

April 19, 1955

To Albert S. Noyes, Bank Commissioner

Re: Right of Trust Companies to Hold Real Estate under Deeds of Trust

We have your memo of April 11, 1955, which reads as follows:

“I have been asked a question in relation to the proposed building which is to be built in Waterville for the use of a manufacturing concern, and I am not entirely sure of the proper answer. The question follows:

“Re: A trust company organized under Sections 90 to 100, inclusive, of the Banking Laws of the State of Maine and having a regularly organized trust department:

“Does such a corporation have the power to hold under a deed of trust, real estate in the form of land, and to build a building or buildings upon such land, issuing a first mortgage and note or notes in its own name as trustee to pay for the building of such a building, and to lease such building, when completed, for a period of years?”

“Will you kindly rule as to whether Paragraph VII of Section 90, Chapter 59, R. S. 1954 confers the power to act as trustee under a deed of trust, the power to issue first mortgage notes with the trust real estate as security, and the power to lease the property?”

Section 90, Paragraph VII of Chapter 59, R. S. 1954, reads as follows:

“VII. To hold by grant, assignment, transfer, devise or bequest, any real or personal property or trusts duly created, and to execute trusts of every description; . . .”

It is our opinion that Paragraph VII of Section 90, Chapter 59, R. S. 1954, combined with the first sentence of Paragraph X of said section,

“To do in general all the business that may lawfully be done by trust companies,”

grants sufficient authority to a trust company to act as trustee under a deed of trust, to issue first mortgage notes with the trust real estate as security, and to lease the property—provided, of course, that the instrument creating the trust specifically contemplates such acts upon the part of the trust company as trustee.

JAMES GLYNN FROST
Deputy Attorney General

April 20, 1955

To Harold J. Dyer, Director, State Park Commission

Re: Town Roads in Parks

Your inquiry of March 31, 1955, asks concerning authority for enforcement of Park Rules on town roads.

It is the opinion of this office that the authority of the Park Commission is limited to the park areas and does not extend to public ways which may approach or run through such parks.

NEAL A. DONAHUE
Assistant Attorney General

April 22, 1955

To Walter F. Ulmer, Business Manager, Bangor State Hospital

Re: Waiver of Liability, Workmen's Compensation

Your letter of April 19, 1955, refers to the circumstances of re-employment of a man having had what appeared to be a coronary attack and who at the time used sick leave.

The cases hold that the employer “takes the employee as he finds him,” or to that effect. In other words, employment of a person who may be easily incapacitated can well involve greater liability or liability more easily brought about than ordinarily. Only in an exceptional case may it be expected that an employee may waive his right to receive benefits under the Workmen's Compensation Act.

Should the circumstances be, however, sufficiently serious to prevent the employee from any employment under ordinary circumstances because of the extraordinary risk to the employer, then a waiver of a claim for liability under circumstances limited to or caused by the then present handicap may be entered into. Under the statute such waiver must be approved by the Industrial Accident Commission or by the Commissioner of Labor and Industry before becoming effective. . .

NEAL A. DONAHUE
Assistant Attorney General