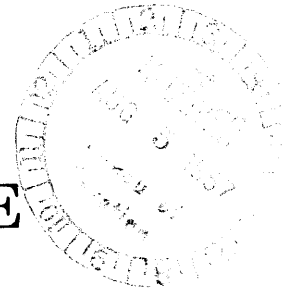
STATE OF MAINE



REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1955 - 1956

It is our opinion that this amendment limits the number of meets that can be held on any one track to not exceeding three in the period of a year.

The answer, then, to your question is that the Commission, under the dates set forth in your question, must issue two licenses, one for each week.

JAMES GLYNN FROST
Deputy Attorney General

May 14, 1956

To Roland H. Cobb, Commissioner of Inland Fisheries and Game

Re: Profits from State-owned Land

We have your memorandum in regard to the payment of certain profits to municipalities in this State. More particularly, your problem arises from an apparent conflict in two of our laws.

The third paragraph of Section 17 of Chapter 37, R. S. 1954, provides as follows:

> "Fur bearers may be removed from said game management areas by controlled trapping conducted under the direction of the Commissioner in which case the furs shall become the property of the State and the proceeds from their sale shall be used for the maintenance of the game management areas."

In 1955 the legislature passed a complete revision of the laws in regard to taxation, and Section 44 of Chapter 399 of the Laws of 1955 provides:

> "In municipalities where the State owns land as the result of acquisition of such land through the use of federal aid funds under the Pittman-Robertson Federal Aid to Wildlife Act and upon which natural products are sold or leased, 50% of the net profits received by the State from the sale or lease of such natural products shall be paid by the State to the municipality wherein such land is located."

The question arises, if fur bearers are taken under the provisions of Section 16, *supra,* upon land acquired by the State with the use of federal funds under the Pittman-Robertson Federal Aid to Wildlife Act, must the profits be shared with the municipality as set forth in Section 44, *supra*?

It is our opinion that in such circumstance the money received from the sale of fur bearers need not be shared under the provisions of Section 44. It is our belief that the "natural products" referred to in Section 44, are timber and grass, sold under permits, which is the usual case, and that the legislature did not intend to amend Section 17 impliedly. The general rule is that there shall be no repeal by implication where a subsequent act can be so read that it is not repugnant to an existing statute. We believe that the legislature well knew that Section 17 was in existence and did not intend to amend it by implication or otherwise.

It is to be noted, further, that Section 44 does not apply to State-owned lands in municipalities as such, but only to State-owned lands acquired through the use of federal aid funds under the Pittman-Robertson Act. In no instance is the profit to be shared unless it can be clearly shown that the land from which the natural products are taken, sold or leased, was purchased in accordance with this provision.

It may be well, as your memorandum discloses, to submit new legislation to clarify this apparent conflict. This we leave to your best judgment.

ROGER A. PUTNAM
Assistant Attorney General

May 25, 1956

To Guy R. Whitten, Deputy Insurance Commissioner

Re: Substitution of Deposit, Manchester Insurance Corporation

We have your inquiry of April 27th with correspondence attached, which is returned herewith.

Section 50 of Chapter 60, R. S. 1954, requires a foreign insurance company, as a condition precedent to doing business in this State, to maintain a deposit, either in this State or in its State of domicile, which in the present case is New Hampshire. The section further provides that the deposit may be in securities under the same restrictions as the investments of companies in other States.

Presently there is deposited with the Insurance Commissioner in New Hampshire $100,000, par value, U. S. Government bonds, held under some sort of trust arrangement for the benefit of the policyholders in the company, primarily those in Maine. The corporation proposes to substitute therefor a certificate of deposit in the First National Bank of Boston in the amount of $100,000.

While I am no banker, a certificate of deposit can be defined as a written acknowledgment by a bank of the receipt of a sum of money on deposit, which it promises to pay to the depositor or his order or some other person or his order, whereby the relation of debtor and creditor between the bank and the depositor is created. This order, I understand, may be placed in trust with proper endorsements thereon, which would allow the Insurance Commissioner to negotiate the same if any proper claim were made against the deposit. A certificate of deposit, in my opinion, may be a form of security, but I do not believe it is the type of security that is referred to in this section. I think that the term "securities," as used here, has its usual or ordinary sense, meaning stocks, bonds, or other evidence of indebtedness of similar nature.

I think it should be pointed out that the government bonds are much better security in the particular instance than the certificate of deposit might be. The certificate is merely a claim against the bank, and if the bank should fail it would be insured only if the bank belonged to the F. D. I. C. The maximum amount is $10,000 and there is a possibility that the other $90,000 would be unsecured and the claimants would stand only as general creditors to the bank. I think that in view of the fact that the statute was put upon the books to protect the policyholders and to give them a source of recovery, we must be restrictive in the quality of security that we require. We should give the policyholders the ultimate in protection. It is therefore our opinion that the substitution should be denied.

ROGER A. PUTNAM
Assistant Attorney General