

# MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT  
OF THE  
ATTORNEY GENERAL

for the calender years

1961 - 1962

In the case of *Cooper v. Fidelity Trust Co.*, 134 Me. 40 at 49, the court said:

"We find no provisions in the statutes of this State which compel the conclusion that as a matter of law certificates of deposit in the usual form payable on time or on certain notice represent commercial transactions. In this respect, the statutes of Maine and Massachusetts are different. We concur, however, in the view that, nothing to the contrary appearing, such certificates of deposit, as well as those payable on demand, usually indicate on their face that the deposits for which they were issued were of that character. History places them in that category and common knowledge establishes the classification as the long-prevailing rule of banking. *Pierce v. State National Bank of Boston*, 215 Mass., 18, 101 N.E., 1060; 3 *Daniel on Negotiable Instruments* (7th ed.), 2043; 1 *Morse on Banks and Banking* (6th ed.), Sec. 297. The issuance of certificates of deposit for savings deposits seems to be of comparatively recent origin, and the exception rather than the rule. We are of opinion that, when, as here, certificates of deposit recite the receipt of deposits without in any way defining their character, it must be presumed that the deposits which they represent were made and accepted as commercial deposits."

Absent legislative authority to accept savings accounts industrial banks may not do so. They may sell certificates of deposit or indebtedness but may not accept saving deposits as commonly known to the general public. Certificates of deposits sold by industrial banks cannot recite characteristics which would indicate an intention to create savings deposits.

GEORGE C. WEST

Deputy Attorney General

September 11, 1962

To: Lawrence Stuart, Director of Park Commission

Re: Application for Federal Funds by State Park Commission

You have asked if the State Park Commission has the legal right to apply for certain Federal funds available for planning purposes.

The State Park Commission has such a legal right. Chapter 36, section 34, VI-A provides as one phase of the Commission's powers and authority:

"To cooperate with Federal Agencies in the planning, development, maintenance and use of recreational areas;"

It would follow that included in this power and authority is the right to accept Federal funds to carry out the purposes enumerated above.

GEORGE C. WEST

Deputy Attorney General