

# MAINE STATE LEGISLATURE

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STATE OF MAINE

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REPORT

OF THE

ATTORNEY GENERAL

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for the calendar years

1941--1942

April 23, 1942

Honorable Sumner Sewall  
Governor of Maine  
Augusta, Maine

My dear Governor:

I have your memorandum of April 15th, referring to this department for reply a question in regard to the status of workers in the navy yard at Kittery, Maine. This problem is one that has called for a great deal of thought because any decision arrived at concerning the status of these workers must apply in varying degrees to people living in several other parts of the State.

The discussion has been particularly concerning those people living in the houses in the Town of Kittery built by the Federal government on land acquired in fee simple by the Federal government and now owned by the Federal government. A very important factor in arriving at a decision is the fact that the State of Maine has not in any way waived jurisdiction over said area, so that, from our point of view, the Federal government holds title in fee simple, acknowledging the overlordship of the State of Maine, just as any other landlord would hold.

The fact that the Federal government is the immediate landlord is not important. If the Federal government sees fit to take title to real property in the same way that a private individual does, the Federal government necessarily accepts, to the extent that it is acting as landlord and insofar as its relations to the State of Maine go, the status of a private individual. The tenant of a private individual gains no particular rights as against the State or municipality, and loses no such rights by reason of his tenancy. He will, therefore, neither gain nor lose any rights by reason of being a tenant of the Federal government where said government accepts a relationship toward the State comparable to the relationship of a private individual.

If a man comes to this State to take a job that is not strictly seasonal or temporary in nature; brings his family with him; has no fixed intention of staying a short time and then returning to the State of his origin; expresses a desire to pay a poll tax and other taxes and receive the benefit of residence in this State; buys or hires a fixed place of occupancy and installs his family therein; he has a right to be regarded as a resident of Maine with all the rights and privileges pertaining to that status and without said status being affected in any way by the fact that his immediate landlord happens to be the Federal government. If he is a citizen of the United States, he is, of course, a citizen of this State and he has the right to live in any State of his choice and in any municipality of the State of his choice, and to exercise therein, all the rights and privileges of citizenship and be subject to all the duties and obligations to which residents of that particular municipality are subject.

It is not the duty of the person taking up his residence in a municipality of this State to act at his peril in seeking a place in which to live. The fact that he hires a house or apartment which happens to be in a "housing project", so-called, does not change his status as a citizen nor impose any restrictions on his exercising the rights of citizenship. A "housing project", so-called, where the land and buildings are owned by the United States Government and where the State has not waived jurisdiction, is not a Federal reservation of the same type as forts and lighthouses. Neither are civilian workers in shipyards owned by the Federal government or by private industry, civilian laborers working constructing and maintaining Federal fortifications and lighthouses, and civilian workers in any other Federal activity in the same status as persons in the military, naval or marine service of the United States or of this State. The former possess freedom of contract and come and go as they will, sometimes to the embarrassment of their employers it is true, but nevertheless in such fashion as to completely demonstrate that they retain their freedom of action. Such persons certainly do not fall within the classification of those who are in a certain locality solely by reason of being located here under orders from a commanding officer. The latter are by the State Constitution, for that reason, expressly prevented from obtaining the rights of residents.

The various departments of this State and the clerks and other officials of our municipalities should guide their conduct in accordance with this opinion and thereby avoid confusion.

Very truly yours,

FRANK I. COWAN  
Attorney General

From:  
The Attorney General

April 23, 1942

To:  
Henry P. Weaver, Chief  
State Police

I have your memorandum of April 18th in regard to the cooperation of Shipyard workers in the use of their automobiles. The subject is brought up particularly by the letter to you from George G. Brown, Chairman of the O. P. A. Rationing Board # 3-2, Brunswick, Maine.

I think there is nothing in the emergency that requires that we permit an absolute breakdown in our laws in regard to the operation of automobiles for hire. It seems to me that we can very easily suggest a method by which these workers can cooperate without any violation of State statutes. If Messrs. A, B, C, D and E each own an automobile and arrange that the automobile of Mr. A only shall be used the first week, Mr. B only the second week, and so on, we will have the conservation of rubber and gasoline that we desire without the problem of violation of the law regarding carrying passengers for hire.