

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1941--1942

You are advised that under the terms of the license agreement the State of Maine, by and through the Maine State Park Commission, has not assumed the duty or obligation to collect any taxes for the United States of America; that as a matter of fact there appears to be no admission charge to which the Federal tax would apply even if it could apply to the State of Maine; that the State of Maine is merely the licensee of the United States of America under a license agreement obviously constituting the State of Maine the agent of the United States of America; that as such agent the State of Maine need not assume any duty other than the duty imposed by the Agreement and that, therefore, if any tax is collectible or payable, derived from the use of the property, that it will be necessary for the United States of America, as principal, to arrange for the collection and payment of its own taxes.

Assistant Attorney General

June 2, 1942

From:
Frank I. Cowan, Attorney General

To:
George E. Hill, State Tax Assessor

Under date of May 25th, 1942, you inquired as to the levying of a tax upon Cumberland County Power & Light Company or Portland Railroad Company, the former of which companies operated a street railroad under lease from the latter, but which street railroad was discontinued as such on or about May 4th, 1941.

The tax about which you inquire is provided for under the provisions of Sections 29 to 35 of Chapter 12 of the Revised Statutes, as amended by Chapter 99 of the Public Laws of 1941.

It appears that the tax is levied on April 1 of each year against every corporation operating a railroad for the privilege of exercising its franchise. Street railroad corporations which own or operate a street railroad are subject to the tax.

Under the facts presented by you, it appears that neither of these companies either own or operate a street railroad, although a street railroad was operated until approximately the 4th day of May, 1941.

If a tax is payable, the tax is ascertained or measured by the business done in the previous year. While it is a fact that the railroad was operated during a part of the previous year, to wit, 1941, it appears that no tax is payable in 1942 for the reason that the tax is imposed on the privilege of exercising the franchise. Since the franchise is not being exercised, it necessarily follows that it is not taxable.

Attorney General