

MAINE STATE LEGISLATURE

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no

January 24, 1944

Oscar L. Whalen, Esquire
Eastport, Maine

Brother Whalen:

Your letter of the 20th inst relative to the use of the name of the State in an organization which you intend to organize under R. S. Chapter 70, was received. In the absence of the Attorney General I am undertaking to answer your inquiry.

I have recently had occasion to consider the same question and I then decided that the name of the State may not be used as a part of the name of the organization under Chapter 70. This is made clear to me by Chapter 134 of the Laws of 1913 which was the first enactment on the subject. The title of the Act was "An Act to Prevent the Use of the Name of the State by Private or Semi-Public Corporations or Associations". Furthermore (as then enacted it was contained in two sections, the first section being the first sentence of the present act and the second section being the last sentence of the present act, and the second section is indicated in the margin as a penalty for violation of that act.

Again in 1919 by the Laws of that year, Chapter 139, an amendment was enacted which is now the second sentence of Section 7, R. S. Chapter 70. By that amendment provision was made to authorize the use of the name of the State by voluntary associations that were established prior to 1913 and then using the name of the State in the title.

The use of the term penalty in the first act, and the amendment by which those voluntary associations that were already in existence and using the name of the State were permitted to incorporate and again make use thereof, would tend to clearly indicate to me that the intention was to absolutely forbid the use of the name of the State and to negative the suggestion contained in your letter that the purpose of it might be to prevent such an association using the name of "Maine" from calling upon the State Legislature for "gifts or allotments". ^{The wording of the statute,} however, is that they forfeit, not that they shall not call upon the State for benefits; that they shall lose it on complaint that they are using the name of the State. And it also speaks of the use of the name as a violation of the provisions of that section.

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Under these circumstances, I do not see how I can approve the suggested name of this corporation when, under the statute, Section 4, I must certify that the certificate is properly drawn and signed and ~~****~~ conformable to the constitution and laws ~~****~~, when in its title there appears the name of the State, the use of which is expressly forbidden.

It would certainly be a source of pleasure for me to be able to publicize the name of the State and its products incorporated in the title, but I do not see how it can be done in view of the legislative mandate that the name of the State shall not be used.

You could, of course, organize under the General Law and use the name of the State and have the benefit of it in that way.

With kind personal regards,

Very truly yours,

Abraham Breitbard
Deputy Attorney General

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