

MAINE STATE LEGISLATURE

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April 5, 1944

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Not sent

To Harold I. Goss, Secretary of State
From Abraham Breitbard, Deputy Attorney General

This is in reply to your memorandum of March 31, 1944, inquiring whether the Maine Maritime Academy is entitled to have its motor vehicles registered by your department without payment of the statutory fee.

On November 3, 1942, this department wrote to the president of the institution in response to an inquiry from him as to whether this academy is a direct agency of the State. The answer will be found in the Report of the Attorney General for the Years 1941-42. It reads in part as follows:

"Chapter 37 of the Private and Special Laws of 1941, as amended by Chapter 102 in Section 1, sets up the Maine Maritime Academy as a 'body corporate and politic, having the same rights, privileges and powers as have corporations organized under the general law. . . .'

"Section 3 of said chapter provides that 'The trustees may receive in behalf of the school grants from any federal government agency and/or from any of the several states and/or from any other source.' Note this is 'on behalf of the school' not on behalf of the State.

"Chapter 97 of the Private and Special Laws of 1941 has to do with the leasing of the Eastern State Normal School property to the Maine Maritime Academy, reciting 'Any such lease shall be executed on the part of the State of Maine by the chairman of the board of normal school trustees and on the part of the Maine Maritime Academy by the chairman of its board of trustees and shall contain a provision that the lessee shall keep the buildings adequately insured against fire, shall keep them in good repair and shall deliver them up to the State of Maine at the expiration of the term of such lease in as good condition as they were at the commencement thereof.' A clear cut distinction can be noted as between the State and the school.

"Chapter 102, aforesaid, provides for an appropriation, but under the heading of 'State Aid'.

"The school property, both real and personal, covered by the lease is of course property of the State, subject to the lease, but it is the opinion of this department that the Maine Maritime Academy is a separate corporation for which the State appropriates money and not a direct agency of the State."

These views the department still adheres to.

Reference is made in your memorandum to Chapter 16, Section 2, of the Private and Special Laws of 1943 and also to Chapter 20 of the Private and Special Laws of the same year. Neither of these chapters is helpful to the academy, so far as they involve any determination as to whether the academy is an agency of the State. Each of these chapters would negative any idea that it was such an agency.

The former requires every department and agency of the State, when requested, to furnish such assistance, counsel or advice as the trustees may require in the discharge of their duties. If the academy were an agency of the State, such a provision would be superfluous, as the trustees would be entitled to the same "assistance, counsel or advice" as the heads of any other departments or agencies then enjoyed.

The latter chapter provides that,

"Whenever the Maine Maritime Academy is dissolved, its real and personal estate shall vest in the State of Maine."

This presumably must relate to the real and personal property acquired subsequent to and other than that covered by the lease before quoted, the title of which remained in the State. If such additional property, real and personal, were acquired by an agency of the State, the title thereto would vest in the State, and, on the dissolution of the academy, would still remain in the State. Hence, it must have been considered by the legislature that whatever property the academy acquired was held in its corporate capacity; and particularly would this be true where the corporation was authorized and empowered to accept grants from any federal government agency, or any of the several States, or from any other source.

We do not believe that this academy is within Section 58 of Chapter 29, R. S. 1930, as amended, exempting "motor vehicles owned and used by the state" and those of "federal and state governmental agencies" from the payment of registration fees.

Abraham Breitbard
Deputy Attorney General

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