

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1945-1946

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Section 119, however, prohibits transportation by the owner and the master or captain of any smack, vessel or boat or the driver of any automobile or truck or other means of transportation engaged in transporting lobsters without the State, unless licensed and having given bond as therein described; but this provision also excludes common carriers as above defined. I think that under the wording of this section "other means of transportation" would include planes; hence a license for this form of transportation may be issued and would have to include a bond as provided in this section and also include the agreements with the owner and operator as to compliance and forfeiture of the bond upon non-compliance.

ABRAHAM BREITBARD
Deputy Attorney General

November 20, 1945

To David H. Stevens, State Tax Assessor

Re: Tax on Sweet Corn

I have your memo of November 13th relating to the provisions of Chapter 125 of the Public Laws of 1945, which is an amendment to Chapter 27 of the Revised Statutes of 1944 and imposes a tax on sweet corn and adds new sections 145-A to 145-J inclusive to said chapter. You call my attention especially to Section 145-F which provides the imposition of the tax and the collection of same and provides that one-half the tax shall be paid by the contractor and one-half by the grower. You recite in your memo that the contractor in many cases supplies seed and fertilizer to the grower on credit and at the end of the season the grower receives the total value of his crop turned in to the contractor, less the charge for seed and fertilizer; and now that there is a tax, the contractor pays the tax and charges the grower with one-half the tax and deducts one-half the tax, as well as the cost of seed and fertilizer, before paying off the grower. You further state that in some cases, due to a poor crop, the amount due the grower for the corn turned in is not equal to the costs of the seed, fertilizer and tax.

On the basis on the foregoing statement you desire an opinion as to whether the contractor is justified in reimbursing himself first and paying what is left on account to the grower, or whether the tax should be paid first and the contractor should then apply the balance of the grower's return toward the charge for the seed and fertilizer, even though it does not balance the account.

It is my opinion that the tax has precedence over the charge for seed and fertilizer, and the tax must be paid regardless of whether the amount for the seed and fertilizer is paid from the amount received. In other words, this is a tax measure placed on the statute books by the industry itself, and it should be considered strictly for the benefit of the industry, and the tax should come first, notwithstanding the fact that some growers may have a poor crop some years.

RALPH W. FARRIS
Attorney General