STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1949 - 1950

In my opinion you should advise the Texas Company that you will accept standard form 1094 in lieu of motor fuel tax on credit cards to this customer. . .

RALPH W. FARRIS
Attorney General

August 12, 1949

To H. A. Ladd, Commissioner of Education
Re: Mt. Desert Island Secondary School District

I have your memo of August 3rd asking the following questions:

"1. In the event that a town accepts or acts favorably at a legally called meeting on the question 'Shall the act to create the Mount Desert Island Secondary School District be accepted,' would that town then at a different meeting have the right to elect under the first article under Section 2 of the act whether or not it would join with any one or more of the towns on Mount Desert Island to form a district?"

My answer to Question 1 is in the affirmative.

"2. Having adopted the act under the provisions of Section 12 and having voted favorably by designating the towns it would join with to form a school district under the first article under Section 2, could a town in the event that it was dissatisfied postpone any action under the second article under Section 2?"

Answer. A town may postpone action under the second article under Section 2, because Section 2 provides that before any town shall become a member of said district it shall call a meeting and vote on the two articles set forth.

"3. In the event that towns A and B voted to accept the act under Section 12, would the act take effect and make it possible for towns C and D to vote on the articles in Section 2 without voting under Section 12?"

No. Before any town can vote on the articles in Section 2, the Act must have been accepted by the town under Section 12 at a referendum.

RALPH W. FARRIS
Attorney General

August 16, 1949

To John H. Welch, Administrative Assistant to the Governor
Re: Income from Water Privileges Belonging to the Penobscot Tribe

In response to your question as to the disposition to be made of income from water privileges belonging to the Penobscot Tribe, you are advised that in the assigning of lands to members of the tribe and in connection with subsequent conveyances of these assigned lands to other members of the tribe, the water privileges do not go with the land.

Section 342 of Chapter 22, R. S. 1944, provides as follows:

". . the water privileges belonging to said islands, valuable for mills, booms, fisheries . . are not subject to assignment or distribution to members of said tribe, but shall remain for the benefit of the whole tribe."

Sections 350 and 351 of the same chapter provide for the leasing of the shores of the islands in the Penobscot River belonging to the tribe, such leases to be made by the agent under the orders of the Department of Health and Welfare, the rents to be paid into the treasury of the State and to be expended for the benefit of the tribe. Consequently, the riparian and upland owner has no right to the income from the exercise of the shore privilege.

JOHN S. S. FESSENDEN
Deputy Attorney General

August 23, 1949

To: Ober C. Vaughan, Director of Personnel,
L. C. Fortier, Chairman, Employment Security, and
David H. Stevens, Commissioner of Health and Welfare

Re: Federal grants to meet costs arising in carrying out the Federal "Standards for a Merit System of Personnel Administration."

On August 11, 1949, Mr. Vaughan addressed a joint memorandum to the addressees named above relative to financial participation by the Federal Security Agency to defray the additional costs arising by virtue of federal requirements superimposed upon the State in its administration of the State Personnel Law in so far as the personnel employed or to be employed by the respective addressee agencies are concerned. We have been asked to review the subject matter as to legal propriety and to give our opinion thereon.

Both of these State agencies receive federal grants for administrative purposes under the provisions of Federal Security Legislation originally known as the Social Security Act. In some cases the grants of federal aid defray 100% of the State's administrative costs and in some cases the federal aid is in "matching" form to a specified percentage of State funds. In any event among the conditions of State entitlement to federal aid are the provisions of federal law to the effect that no State shall be entitled to such aid unless the State law includes provision for "such methods of administration (including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Administrator shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Administrator to be necessary for the proper and effective operation of the plan." Sec. 2(a), Title I, Social Security Act, as amended.

This quotation applies directly to the State's Department of Health and Welfare. The federal law applicable to the Employment Security Commission reads identically to the closing of the parenthesis and concludes as follows: "as are found by the Administrator to be reasonably calculated to insure full