

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

Before answering the direct question I should like to comment on Mr. Watson's letter. Originally, the Civil Defense program is based upon a form of hierarchy extending from the Director and his Deputies to the County Director and his Deputies to the local municipalities. If Mr. Watson was attempting to stop automobiles or people under the direction of the County Director or one of his Deputies, then his problem should be presented to you through channels via the County Director. If he was not conducting this activity in conjunction with the county organization, then he should have been doing so and, again, his authority to stop should have been derived through county directions, and his questions concerning such authority should be directed to the county officers. In other words, from the wording of Mr. Watson's letter there appears to be no coordination between the local raids in which he participated and the County Directors. His letter, as a result, points out exactly the problem that would arise if auxiliary police or other people were indiscriminately given the power to arrest or otherwise enforce what they believe to be laws relating to air raids.

In answer to Mr. Watson's letter and for your advice, the problem presented is an extremely important one and should be very carefully considered before an ultimate answer is given.

Examination of the statutes involved reveals that Chapter 273 of the Public Laws of 1951 amended section 7 of the Civil Defense Act to give police sections of Mobile Reserve Battalions the power to arrest. Prior to this amendment the State Civil Defense law contained no provision with respect to powers of arrest. It is my thought that Mobile Reserve Battalions having been specifically granted the power of arrest, such power is not granted to other officers in the Civil Defense set-up. It will be noted that the power of arrest given to these battalions can be exercised only when such battalions have been called to duty upon orders of the Governor, presumably in times of emergency.

Referring to letters of my predecessor, Mr. Fessenden, I find that on May 29, 1951 he expressed his opinion relative to this problem, stating that it was his opinion that in "dry runs" there should be no actual stopping of vehicles, there being no particular purpose for such stopping, and that the placing of individuals at appropriate locations with the assignment of making a count of vehicles passing would give the necessary experience to show what problems would be in an actual emergency.

JAMES G. FROST
Deputy Attorney General

July 22, 1952

To Roland H. Cobb, Commissioner of Inland Fisheries and Game
Re: Offer of Central Maine Power Company

You ask as to the legality of accepting a gift of money from the Central Maine Power Company to build a rearing station, such gift to be in lieu of your not requiring fishways in the Wyman Dam and also in the new dam which is being built at Indian Pond.

It is our understanding that the Central Maine Power Company is desirous that such gift may forever bar requests for fishways in the main river, across which the dam is being built.

In any event, if this information is incorrect, our answer will be the same with respect to the question as propounded by you.

There is, of course, no prohibition against your department's receiving a gift for the purpose of assisting in building a rearing station. However, a reading of the statutes relative to fishways reveals that your power with respect to requiring the construction of fishways is limited, and the conditions attached to the gift cannot be accepted by the Commissioner of Inland Fisheries and Game. Before such a gift can be accepted with the limitations mentioned in your memo and the further limitation which we understand to be attached to the gift, legislative approval must first be obtained.

JAMES G. FROST
Deputy Attorney General

July 28, 1952

To Harold I. Goss, Secretary of State

Re: "Bank" in name of corporation

You inquire whether the West Bank Oil Terminal, Inc., of New Jersey is eligible for registration as a foreign corporation to do business in this State.

Section 5 of Chapter 55 provides in effect that no company shall use the word "bank" unless duly authorized under the laws of this State or of the United States to conduct the business of a bank or trust company.

Section 5 is actually more inclusive than the preceding sentence would indicate, but this is sufficient for the purpose of this opinion.

The intent of Section 5, Chapter 55, is clearly to prevent a company not duly authorized and registered under the laws from conducting a banking business and from further enhancing its business by the use of the word "bank" or similar words.

The word "Bank" in the name, "West Bank Oil Terminal, Inc., of New Jersey," merely indicates the location of the company's plant on a particular river bank, and it is our opinion that such word cannot be construed as leading people to believe that the company is conducting a banking business.

It is therefore our opinion that the above named corporation is eligible for registration as a foreign corporation to do business in this State, provided, however, that if their purposes are similar to the purposes authorized by the general laws of other States in that they may do a banking business, then a waiver should be filed providing that this corporation shall not conduct a banking business in the State of Maine.

JAMES G. FROST
Deputy Attorney General