

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

January 12, 1954

To Roland H. Cobb, Commissioner of Inland Fisheries and Game
Re: Acceptance of Gift of Land

We have your memo of January 5, 1954, in which you state that you are interested in acquiring as a gift from the Federal Government a plot of land in the unorganized township of Salem, together with the buildings thereon, formerly used as a rearing station, and that in order to make application to the General Services Administration for this property you need a statement from this Office, quoting the statute authorizing you to accept such a gift.

In the event you plan to continue the use of that property as a rearing station, we quote the following section of Chapter 33, R. S. 1944, as being sufficient authorization for you to accept this property by way of gift:

“Sec. 14. Commissioner may take land for fish hatcheries or game management areas; appeal. The Commissioner for the location, construction, maintenance and convenient operation of a game management area for game, fish hatchery or fish hatcheries and feeding stations for fish may acquire in the name of the state by gift, bequest or otherwise, real and personal property; or he may purchase, lease or take and hold, for and in behalf of the state for public uses, land and all materials in and upon it or any rights necessary for the purpose of establishing, erecting and operating game management areas, fish hatcheries or feeding stations.”

In the event it is not intended that such land be used for the purpose mentioned in Section 14 of Chapter 33, then we would direct your attention to Section 15 of Chapter 11 of the Revised Statutes of 1944, which section provides:

“The governor, with the advice and consent of the council, is hereby authorized to accept in the name of the state any and all gifts, grants, and conveyances to the State of Maine.”

JAMES G. FROST
Deputy Attorney General

January 12, 1954

To Col. Francis H. McCabe, Chief, Maine State Police
Re: Verdict of “Not Guilty” in a Municipal Court

We have your memo of December 31, 1953, and attached thereto a copy of correspondence from Camille Carrier, which you have sent to this office for whatever action we may desire to take.

In brief, the gist of Camille Carrier's letter is that the Municipal Court of the City of Auburn found a decision of “Not guilty” in a case in which Camille Carrier prosecuted the defendant for operating a motor vehicle while under the influence of intoxicating liquor, because of which decision Carrier feels that the matter should be presented to a grand jury.

We wish to advise that as a matter of law a finding in a municipal court

of "Not guilty" is a final determination in a criminal matter. The decision is res judicata, and that same case cannot be tried a second time, either by complaint or by indictment of a grand jury.

JAMES G. FROST
Deputy Attorney General

January 13, 1954

To General George M. Carter, The Adjutant General
Re: Directional Lights

This office is in receipt of your memo of December 29, 1953, with attached correspondence relating to Sections 107-A, B and C of Chapter 19 of the Revised Statutes of 1944, as amended.

It is stated in a letter dated May 29, 1953, from your Bureau to the Chief, National Guard Bureau, Washington, D. C., that the effect of these sections was to enact into law a proviso that all motor vehicles, irrespective of purpose, shall be equipped, front and rear, with directional signal lights.

You were advised in response to that letter that standardization of military vehicles would not include such equipment and that authority was not granted for any such installation on your vehicles. You therefore request an opinion from this office to the effect that your department is authorized to operate vehicles in the control of the Maine National Guard, Air and Army, on Maine highways in connection with the training of the Maine National Guard and the necessary use supporting any State interest, without complying with such law.

Personally, we wish to advise that the effect of the above quoted law is not that which was contained in your letter of May 29th above referred to. Signals may be given by means of the hand and arm or by a signal lamp or lamps or mechanical signal device, provided that, when a vehicle is so constructed or loaded that a hand-and-arm signal would not be visible both to the front and to the rear of such vehicle, then said signals must be given by such a lamp or lamps or signal device.

The Secretary of State has issued a memo in which are set out the measurements of a truck which require a lamp or lamps or a mechanical signal device. From the list of vehicles in the control of the Maine National Guard, Air and Army, supplied to this office in your memo of December 29th, it is very probable that not all of your vehicles would require such equipment.

Having reviewed our laws relative to registration, inspection and the application of these laws to federally owned vehicles, this office is of the opinion that federally owned military vehicles being used by the National Guard Bureau need not comply with the requirement of the law with respect to mechanical signaling devices.

ALEXANDER A. LaFLEUR
Attorney General