

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

March 9, 1954

To Marion Martin, Labor Commissioner

Re: Employment of Women by Two Firms at once.

. . . You ask for a ruling on the following questions which arise under the provisions of Sections 22 and 23 of Chapter 25, R. S. 1944, as amended:

“A woman works eight hours a day in one plant, and then works a six or eight-hour shift for another employer. There are two situations in question —

1. Where the two employing firms are corporations with partially the same ownership and interlocking directorates, but with separate plant management, and
2. Where the two employing firms are in different fields of activity with no known connection between them.”

It is the opinion of this office that the statutes in question have reference to work performed in a single establishment and do not embrace employment in two or more different establishments. We therefore answer both questions 1 and 2 by saying that there is no violation of Sections 22 and 23 of Chapter 25 under the fact situation you relate.

JAMES GLYNN FROST

Deputy Attorney General

March 9, 1954

To Kermit Nickerson, Director of Professional Services, Education

Re: Minimum Salary Law

This is in answer to your memo asking with respect to Chapter 371 of the Public Laws of 1953, which chapter enacts a minimum salary for teachers:

“The question has been raised whether or not payments to teachers after July 1, 1954 must be in amounts conforming with the new salary law, even though payments (presumably for July and August) are for services performed in the 1953-54 year ending June 30, 1954.”

The answer to your question is in the negative. The effective date of the act above mentioned is July 1, 1954. From that date onward, the salaries of teachers must comply with the law. However, payments made for services rendered prior to the effective date of the act may be made in conformity with the agreement under which the teacher was working prior to July 1, 1954.

JAMES GLYNN FROST

Deputy Attorney General

March 9, 1954

To E. L. Newdick, Deputy Commissioner of Agriculture

Re: Quarantine on New York Potatoes

Under date of June 24, 1948, and pursuant to Chapter 364 of the Public Laws of 1947, a quarantine was imposed against the transportation of diseased potatoes from a portion of New York State into the State of Maine. While the

quarantine was based on a certain condition then existing in the State of New York, by the words of the rule and regulation as enacted quarantines thereafter placed were purportedly embraced and it is stated in paragraph 4 of the rule and regulation that the same shall continue in effect until further order.

It appears that from December 21, 1953, New York State promulgated a golden nematode quarantine, No. 9, which is the same disease in the same area as the prior quarantine upon which the rule and regulation in question was based.

You ask if the quarantine enacted through rule and regulation by the Commissioner of Agriculture of the State of Maine in 1948 still holds, so that potatoes in the newly declared quarantine area in New York can be prohibited from being transported into this State.

This rule and regulation has been promulgated, we presume, under the police power of the State and permits the seizure of property of those who violate the rule and regulation. Such a rule and regulation, permitting the seizure of property, is strictly and narrowly construed by the courts in favor of the person whose property is seized. The quarantine having been originally enacted because of a condition then existing in New York presents a doubt as to whether such rule and regulation would be in effect today, despite the words in the rule and regulation intending to have its effect carried into the future. For these reasons we would strongly recommend that a new rule and regulation be enacted, having as its basis the current quarantine in New York State.

JAMES GLYNN FROST
Deputy Attorney General

March 18, 1954

To Roland H. Cobb, Commissioner of Inland Fisheries and Game
Re: Swan Island

We have your letter of March 3, 1954, and attached memo from W. R. de Garmo, Chief of the Game Division of your Department.

Section 128 of Chapter 33 of the Revised Statutes, as amended, being that section which sets out the game preserves and sanctuaries in the State of Maine, lists the Swan Island Game Management Area as a preserve and, with one limitation, prohibits hunting activities on the islands. It is pointed out in De Garmo's memo that such provisions are inconsistent with the authority granted by statute to the Commissioner relative to game management areas. Because of this conflict it is asked what the present status of the islands is.

We are of the opinion that the legislature, in imposing such limitations on the Swan Island Management Area, in fact removed from the Commissioner the rights which would ordinarily be his under Section 12-A to regulate game management areas. With respect to that area we feel that Section 128 alone should be considered in relation to the manner in which such area should be treated. There are some rights under Section 128 specifically granted