

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

November 16, 1954

To Earle R. Hayes, Secretary, Maine State Retirement System
Re: Military Leave

I have your memorandum of October 27th relating to military service, more specifically to subsection VI of Section 3 of Chapter 60, R. S. 1944, where it is provided that an employee who enlists or is inducted into the Armed Forces of the United States in time of war . . . or while the provisions of Public Law 759, 80th Congress (Selective Service Act of 1948) or any amendment thereto or extension thereof shall be in effect . . . and shall have all the benefits thereof.

You ask if the provisions of these two statutes are still operative. In the first instance, I do not believe that we are now in a time of war there being no formal declaration by Congress and no active fighting now going on. Second, the Act referred to in subsection VI, commonly called the Selective Service Act of 1948, is still in effect. That statute is now cited as Sections 451-473, both inclusive, of Title 50, U. S. Code. The name has been changed. It is now the Universal Military Training and Service Act. This statute is in operation.

ROGER A. PUTNAM
Assistant Attorney General

November 19, 1954

To Ernest H. Johnson, State Tax Assessor
Re: Leased Equipment used in Maine by Contractors for Maine Turnpike Authority

You inquire whether the Maine sales and use tax applies to various rental arrangements involving the rental of heavy contracting machinery and, further, you inquire how the law is to be applied.

Taking the cases in the order in which they appear in the memorandum dated November 10, 1954, from Norman P. Ledew, Chief Examiner:

1. You state that Campanella & Cardi have rented 3 bulldozers for \$5,400 a month under an arrangement whereby the rental payments are to be credited against the purchase price if the lessee buys the bulldozers, provided, however, he must buy before June 15, 1955.

You do not make clear whether the rentals, if paid on time, would amount to the full purchase price by June 15, 1955.

Installment leases have been construed by the Supreme Judicial Court from a very early date. Our own Maine Sales and Use Tax Law provides:

“The term ‘retail sale’ or ‘sale at retail’ includes conditional sales, *installment lease sales*, and any other transfer of tangible personal property when the title is retained as security for the payment of the purchase price and is intended to be transferred later.” (Sec. 2.)

The law also provides:

“‘Sale’ means any transfer, exchange or barter, in any manner or by any means whatsoever, for a consideration in the regular course of business