

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

December 9, 1954

To Colonel Robert Marx, Chief, Maine State Police
Re: Jurisdiction on Federal Property

You ask our opinion on several questions concerning jurisdiction on Federal property. Consideration of such questions requires that we first examine the words of the pertinent statutes and the constitutional provisions relating to jurisdiction.

Article One, Section VIII, clause 17 of the Federal Constitution provides that Congress shall have power to exercise exclusive jurisdiction over all places purchased by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings.

Section 11 of Chapter 1 of the Revised Statutes of 1944 contains the consent of the legislature to the acquisition by the United States of certain lands for the purpose of erecting particular buildings.

Section 12 of Chapter 1 is that section which relates to the question of jurisdiction and we herewith quote it in its entirety:

“Exclusive jurisdiction in and over any land acquired under the provisions of this chapter by the United States shall be, and the same is ceded to the United States for all purposes except the service upon such sites of all civil and criminal processes of the courts of this state; provided that the jurisdiction ceded shall not vest until the United States of America has acquired title to such land by purchase, condemnation, or otherwise; the United States of America is to retain such jurisdiction so long as such lands shall remain the property of the United States, and no longer; such jurisdiction is granted upon the express condition that the state of Maine shall retain a concurrent jurisdiction with the United States on and over such lands as have been or may hereafter be acquired by the United States so far as that all civil and criminal process which may lawfully issue under the authority of this state may be executed thereon in the same manner and way as if said jurisdiction had not been ceded, except so far as said process may affect the real or personal property of the United States.”

It appears, then, that the Federal Government can acquire exclusive jurisdiction over properties in a State if such purchases are with the consent of the legislature for the purposes enumerated in the Federal Constitution. Such exclusive jurisdiction, however, must be assented to by the State.

Referring to Section 12 above quoted makes it apparent that the State of Maine has not granted exclusive jurisdiction to the Federal Government, but has retained concurrent jurisdiction for the purpose of the service of all civil and criminal processes which may lawfully issue under the authority of this State.

Proceeding to your questions:—

“1. Can an officer serve criminal process on property owned by the United States and used for military installations throughout the State when the

offense has been committed off this property and within jurisdiction of a State court?"

Answer. Yes.

"2. Can an officer arrest for criminal violations being committed in Federal Buildings?

- (a) Owned by the United States Government,
- (b) Leased by the United States Government,
- (c) On land adjacent to these buildings?"

Answer to (a): No. *Answer to (b) and (c),* Yes.

"3. Can an officer in direct pursuit arrest and take from these premises a person who has violated the law?"

Answer. No

With respect to this question we would suggest that if pursuit of one believed to have committed a felony takes an officer to a Federal installation owned by the United States Government, the cooperation of the authorities of that installation be sought.

While this opinion sets out what this office believes to be the law relative to jurisdiction on Federal property, it is not meant to be considered as authorization to enter such property, absent the consent of proper Federal authorities.

We are all aware of the precautions taken by the military to prevent the intrusion of unauthorized persons upon Federal property. The personnel upon whom is placed the duty of enforcing security rules may not be familiar with all phases of law, and we should like to emphasize the necessity and importance of mutual understanding between local or State police authorities and the military authorities, with respect to the subject matter covered herein.

JAMES GLYNN FROST

Deputy Attorney General

December 9, 1954

To Earle R. Hayes, Secretary, Maine State Retirement System

Re: Teaching Service at Maine School for the Deaf

I acknowledge receipt of your memo of November 22, 1954, in which you state that you have a teacher who for 24 years taught in the public schools and for one year at the Maine School for the Deaf.

You feel that the year of teaching service at the Maine School for the Deaf ought to be considered as service rendered in the category of "teacher", in which case this particular individual would have completed a minimum of 25 years of teaching service and be eligible for a minimum retirement benefit as provided for teachers. You ask if we concur with your thinking with respect to whether or not the service at the Maine School for the Deaf by a teacher should be considered creditable teaching service.

There is no question but that teaching at the Maine School for the Deaf may, in some instances, be considered creditable service under Sections 221 *et seq.* of Chapter 37 of the Revised Statutes of 1944, as that school was sustained completely or almost completely by the State.