

MAINE STATE LEGISLATURE

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STATE OF MAINE



REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1955 - 1956

February 29, 1956

To Roland H. Cobb, Commissioner of Inland Fisheries and Game

Re: Breeding and Sale of Pheasants

Reference is made to your memo of February 16, 1956, in which you draw our attention to two sections under Chapter 37 which appear to be in conflict.

Section 15 provides that the Commissioner may issue permits to any person, firm or corporation to engage in the business of propagating game birds. It is further provided that such licensed breeders may at any time sell, transport, or kill and sell game birds.

Section 85 of Chapter 37 provides that no person shall at any time buy or sell any partridge, grouse or pheasant. The same section also regulates migratory game birds.

Section 88 defines game birds and migratory game birds. Game birds are defined as being partridge, grouse and pheasant. We will not cite all the birds contained within the definition of migratory game birds, but such birds do not include those in the game bird category.

In interpreting statutes, and to subserve the general intent, it is assumed that the legislature has a consistent design and policy. To that end, all words are considered operative whenever possible and all statutes relating to a particular subject matter are read as a whole for the purpose of harmonious construction.

Reading Sections 15, 85 and 88 together, in so far as they relate to the problem concerned, we are of the opinion that the permit provided for in Section 15, which authorizes the Commissioner to issue permits to persons to propagate game birds and to sell or transport such birds, is a clear and deliberate exception to the provision in Section 85, which prohibits the selling of such birds.

Thus, in answer to your question, "Can this man raise pheasant under the game breeder's license and sell them to restaurants?" we are of the opinion that he may do so.

JAMES GLYNN FROST
Deputy Attorney General

March 8, 1956

To Adam P. Leighton, M. D., Secretary
Board of Registration of Medicine

Reference is made to your inquiry in regard to the taking of an examination by a man who has served a six months' internship but must serve two or three years' internship at the Massachusetts Eye and Ear Infirmary before he can start his practice. Under these conditions you ask if he can now take the State Board exams in Maine.

We must answer your question in the negative. Reference is made to an opinion furnished you by Mr. Frost on January 16, 1956, where a similar problem was posed.

In our opinion, Chapter 169 of the Public Laws of 1955, which amended Sections 3 and 4 of Chapter 66 of the Revised Statutes of 1954, requires as an absolute condition the service of internship for a minimum of twelve months in

a hospital approved by the American Hospital Association and the American Medical Association, and in no circumstances may this be waived.

ROGER A. PUTNAM
Assistant Attorney General

March 8, 1956

To Frank S. Carpenter, Treasurer of State

Re: Withholding of Funds

. . . You ask if it is proper for you to withhold town funds to pay Social Security, which, as you state, is a federal agency.

It is our opinion that under the provisions of Section 4, subsection IV of Chapter 65 of the Revised Statutes it is proper for you to withhold money from a town which owes money to the Maine State Retirement System by virtue of an agreement executed by the town and the System, whereby the town agreed to pay periodically moneys due for Social Security.

JAMES GLYNN FROST
Deputy Attorney General

March 14, 1956

To Frank S. Carpenter, Treasurer of State

Re: \$10,000 State of Maine Highway 4% Bonds numbered 30013-22, due May, 1941, and Vesting Order 14772, Alien Property Custodian.

Reference is made to an opinion of Attorney General Ralph W. Farris, dated July 26, 1950, at which time the Attorney General advised that the sum due on the above mentioned bonds plus interest accrued and unpaid not be turned over to the Office of the Alien Property Custodian. The basis of his opinion was that there would not be sufficient protection to the State of Maine if the bonds were presented for payment at your office.

Since Mr. Farris's opinion there has been a great deal of litigation in regard to the right of the Attorney General of the United States as successor to the Alien Property Custodian to vest in himself title to an obligation, in this case a bond, which was not present within the borders of the United States. In *Cities Service Co. v. McGrath*, 342 U. S. 330, the Supreme Court of the United States had an opportunity to pass on practically the very situation that faces us here. In that case the Attorney General sought payment of two 5% gold debentures, face value of \$1000 each, payable to bearer. These obligations were outside the country at the time the vesting order was made. The Supreme Court held that under the provisions of the Trading with the Enemy Act the Attorney General had the power to vest title of these obligations in the United States Government, notwithstanding the fact that the debentures themselves were outside the United States at the time of vesting and that he had never at any time come into the physical possession of the bonds, which were the evidence of indebtedness.

Such is the situation we are faced with. The vesting order discloses that the original title was in Allianz Lebensversicherungs, a German corporation, at the