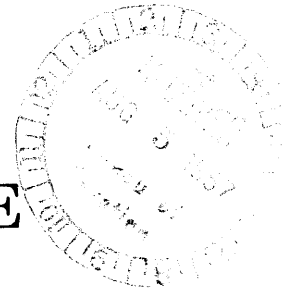
# STATE OF MAINE



# REPORT

OF THE

# ATTORNEY GENERAL

for the calendar years

1955 - 1956

*Answer.* A person may not acquire a legal voting residence in Maine by residing on the government reservation at Togus for a period of six years.

By virtue of Chapter 66 of the Public Laws of 1867 and Chapter 612 of the Private and Special Laws of 1868, legislative jurisdiction was ceded by the State of Maine over Togus to the United States. The only jurisdiction retained by the State of Maine was the right to serve process, and this right relates only to processes arising out of activities which have occurred outside the reservation.

With respect to Togus our Court has stated in *Holyoke* vs. *Holyoke,* 78 Me. 401:

> "The laws of this State do not reach beyond its own territory and liquors sold in the ceded territory (Togus) cannot be considered sold in violation of the laws of this State."

It thus appears that a person residing on government property, over which the State of Maine has ceded jurisdiction to the federal government, is not residing on Maine property and for this reason cannot acquire a residence in the State of Maine.

JAMES GLYNN FROST
Deputy Attorney General

September 20, 1956

To Harold I. Goss, Secretary of State

Re: Corporations Doing Business in this State

You request an opinion on the following fact situation:

"One of our corporate clients is desirous of maintaining a stock of merchandise in public warehouses and of authorizing independent brokers to make sales from this stock in your state. The corporation does not plan to have a branch office or other salesmen or employees in the State. The brokers, who are to be paid on a commission basis only, will not be exclusive agents of the corporation inasmuch as they act as brokers for many other companies producing a similar line of goods. In case law and statutes we have not been able to find a clear indication that this type of activity constitutes the doing of sufficient business to require the corporation to qualify to do business in your State. We would be most appreciative, therefore, if you would inform us whether it is the policy in your State to require qualification of corporations engaged in similar activities."

It is the opinion of this office that the activities described above, when conducted within the State of Maine, would constitute the doing of such business as is contemplated by Sections 127 and 128 of Chapter 53 of the Revised Statutes of 1954 and it would therefore be necessary to require qualification in this State by such corporation.

JAMES GLYNN FROST
Deputy Attorney General

October 1, 1956

To Paul A. MacDonald, Deputy Secretary of State

Re: Financial Responsibility Law

In your memo of September 24th you relate that a son, while driving a car borrowed from his mother for his own use, was involved in an accident, as a re-

sult of which he was eventually convicted. The vehicle was not insured, and under the provisions of Section 77 of Chapter 22, R. S. 1954 (Financial Responsibility Law), both mother and son are required to furnish security to satisfy judgment and a proof of financial responsibility for three years (Section 77-II-B):

> "B. Upon receipt by him of the report of an accident other than as provided for in paragraph C of this subsection, which has resulted in death, bodily injury or property damage to an apparent extent of $100 or more, the secretary shall, 30 days following the date of request for compliance with the 2 following requirements, suspend the license or revoke the right to operate of any person operating, and the registration certificates and registration plates of any person owning a motor vehicle, trailer or semi-trailer in any manner involved in such accident, unless such operator or owner or both:
>
> 1. shall have secured a written release, duly authenticated, from the other party or parties involved in such accident, or shall have previously furnished or immediately furnished sufficient security to satisfy any judgment or judgments for damages resulting from such accident as may be recovered against such owner or operator by or on behalf of the aggrieved person or his legal representative, and
>
> 2. shall immediately give and thereafter maintain proof of financial responsibility for 3 years next following the date of filing the proof as provided under the provisions of subsection II of section 81."

You state that under such circumstances as above described, where a gratuitous bailment is involved, you have been requiring proof of financial responsibility on the part of the owner, which actually is proof of insurance covered from the owner, in accordance with an oral opinion in a similar case given by Abraham Breitbard when he was Deputy Attorney General. You then ask if in our opinion the Secretary of State has any authority under the law to require that proof of insurance coverage be filed by the owner in the instant case.

*Answer.* Yes. In our opinion the Secretary not only has authority to require proof of insurance coverage, to be filed by the owner of such vehicle, but under the express wording of the statute we do not see how he could avoid requiring such proof.

Reading the entire section as a whole it can be seen that the legislature clearly intended such proof to apply to the owner who consented to his car being used by another person. If there be any doubt in reading paragraph B of Section 77 that the legislature meant to require proof of financial responsibility of the owner of the car, it should be resolved in reading subsection V, which sets forth those instances in which the owner or operator is excluded from the operation of the law.

Paragraph A of subsection V provides that such proof (as required by subsection II) shall not apply

> "to the owner of a motor vehicle . . . operated by one having obtained possession or control thereof *without* his express or implied consent."

From a reading of these laws we gather that the owner of a motor vehicle driven by another person shall, in the event of an accident involving that motor vehicle as set forth in Section 77-II-B, give proof of financial responsibility, un-

less such other person was using the vehicle without the express or implied consent of the owner.

JAMES GLYNN FROST
Deputy Attorney General

October 2, 1956

To Captain Lloyd H. Hoxie, Maine State Police

Re: Records of Juveniles

You ask whether or not the records of juveniles in your custody can be made available to bona fide law enforcement officers and agencies.

*Answer.* Yes. Making such records available to law enforcement officers is not making them available to the public.

In response to your further request we herewith give you the statutory citations that deal with the records of juveniles:

Chapter 146, Section 4, R. S. 1954: "Records of such cases shall not be open to inspection by the public except by permission of the court."

Chapter 27, Section 77, R. S. 1954 (Juveniles committed to the State School for Boys): "The records of any such case by order of the court may be withheld from indiscriminate public inspection. Such record shall be open to inspection of the parent or parents of such child or lawful guardian or attorney of the child involved."

An identical provision appears in Chapter 27, Section 89, R. S. 1954, in the case of juveniles committed to the State School for Girls.

JAMES GLYNN FROST
Deputy Attorney General

October 8, 1956

To Samuel S. Silsby, Jr., Assistant Director of Legislative Research Committee

Re: School Milk

Your memorandum of September 17, 1956, is as follows:

"The Legislative Research Committee requests an opinion of the Office of the Attorney General relative to the price-fixing jurisdiction of the Maine Milk Commission, specifically with reference to school milk, so called, financed wholly or in part by federal funds."

The school lunch program is authorized by Chapter 41, Sections 219-222, R. S. 1954. Section 221 reads in part as follows:

> "The superintending school committee of any town may establish, maintain, operate and expand a school-lunch program for the pupils in any school building under its jurisdiction, may make all contracts necessary to provide material, personnel and equipment necessary to carry out the provisions of the act, . . . ."

On April 26, 1956, in a memorandum to the Legislative Research Committee, we re-affirmed two previous opinions that the State was not subject to the milk