

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1957 - 1958

July 9, 1957

To Honorable Edmund S. Muskie, Governor of Maine

Re: Memorandum of Understanding between Office of the Governor,
State of Maine, and Commander, 32d Air Division (Defense),
United States Air Force, East Syracuse, New York

We are returning to you all papers sent to this office relating to the above subject matter.

With respect to same you ask if the instrument is a proper one for your signature.

In our opinion the instrument should not be signed by the Governor of the State of Maine.

The purpose of the Memorandum of Understanding is to make available to the Commander of the 32d Air Division (Defense), for such employment, the Maine Air National Guard prior to actual mobilization, or prior to a Presidential Proclamation of a state of emergency, or prior to a Congressional declaration that a state of war exists, a proviso being that the Commander of the 32d Air Division (Defense) determines that an enemy air attack is in progress.

We have also ascertained that a function of the Memorandum of Understanding is to permit the use of the 132d Fighter Interceptor Squadron of the Maine Air National Guard outside the State of Maine, prior to such time as the necessary Proclamations have been made.

With respect to the right of the Governor, as Commander-in-Chief of the Army and Navy of the State and of the National Guard, to permit troops to go outside the State of Maine, we would draw your attention to Article V, Part First, Section 7 of the Constitution of Maine. That section reads as follows:

“He shall be commander in chief of the army and navy of the state, and of the militia, except when called into the actual service of the United States; but he shall not march nor convey any of the citizens out of the state without their consent, or that of the legislature, unless it shall become necessary, in order to march or transport them from one part of the state to another for the defence thereof.”

This provision of the Constitution is identical with that contained in the Revised Statutes of 1841. It may be that the time has come when such provision should be amended, but in the absence of such amendment we must advise that the Agreement would not be a proper one for your signature.

JAMES GLYNN FROST
Deputy Attorney General

July 9, 1957

To Stanton S. Weed, Director, Motor Vehicles

Re: Registration of Trucks under Chapters 309, 330 and 363, P. L. 1957.

You request an interpretation of Chapter 309, Section 2, P. L. 1957, effective August 28, 1957, providing for a new maximum in gross weight of 60,000 lbs. for trucks having four or more axles; Chapter 330, Section 4, which provides a new schedule of truck fees from the 6,000 lbs. G. W. minimum through the