

MAINE STATE LEGISLATURE

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200

July 12, 1957

To: Doris M. St. Pierre, Secretary of Real Estate Commission

Re: Selling of hay

We have your memorandum of July 11, 1957, which asks the following question:

"Does the selling of hay for others for a compensation come within the meaning of the law (meaning the Real Estate Law) requiring a broker's or salesman's license?"

As the question is propounded, we will have to answer in the negative.

The term "hay" must be construed according to the common meaning of the term. "Hay" has been defined by Webster as grass cut and dried for fodder or grass prepared for preservation. It has also been held that the term "hay" means the flora of the meadow after it is severed and is therefore distinguished from the term "grass" which is the hay before it is severed and cured. Reed v. McRill, 41 Neb. 206; 59 N. W. 775.

It has been held that a lessor's reservation of one-half of the hay did not include grass, hay commonly meaning grasses or seeds which have been harvested. Sandall v. Hoskins, 104 Utah 50; 137 P. 2d 819 at 823.

Hay is therefore personalty not realty and does not fall within the term "real estate" as found in Chapter 84; nor under the term "leasehold" or any other interest in real estate less than leasehold. See definition sub-section II of Section 2, Chapter 84, Revised Statutes of 1954.

Roger A. Putnam
Assistant Attorney General

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