

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1957 - 1958

visions of Section 26-A of Chapter 22, R. S. 1954, raises a question concerning Section 29, subsection I, of Chapter 22.

He states that he had taken 50,000 feet of sawn lumber as payment for a piece of machinery and claims that he has a right to haul this lumber on his truck bearing transit plates, not only to his place of business, but to deliver it to any buyer he can find. The dealer also states that he has taken livestock and other commodities in trade for machinery.

You ask if a dealer can haul lumber and livestock under the circumstances outlined above on transit plates under the authority of Section 29-I.

Answer. Yes.

Section 26-A is that section defining in general the types of equipment which may be moved on the highways under transit plates:

“Finance companies, heavy equipment dealers, farm machinery dealers, trailer dealers, junk dealers and service stations may make application to the motor vehicle dealer registration board upon a blank provided for the purpose for a registration certificate and plate, for the purpose of movement on highways of such vehicles owned or controlled by them.” Section 29-I is that section permitting the moving of trucks for certain purposes:

“No motor truck, tractor or trailer registered under the provisions of sections 21 to 29 inclusive, shall be used for other than demonstration, service or emergency purposes. Provided, however, that when trucks, tractors or trailers bearing dealer or transit registration plates are used for service purposes, such use shall be limited to the transportation of articles and materials directly connected with the purchase and sale of motor vehicles and the maintenance of the properties connected and used with such business.”

We are of the opinion that materials such as lumber taken in payment or part payment in connection with the sale of equipment of the nature set forth in the provisions of Section 26-A (which equipment may be moved on the highways under transit plates) may properly be carried by a vehicle under the “service” portion of Section 29. Such use of a vehicle to transport material taken in trade is a use directly connected with the purchase and sale of the dealer’s equipment.

JAMES GLYNN FROST
Deputy Attorney General

November 6, 1957

To the Honorable Eugene Cook, Attorney General of Georgia

Re: Effective Date of Constitutional Amendments

We have your letter of October 29, 1957, in which you set forth the varying manner in which the several States determine the effective date of constitutional amendments and in which you inquire how the problem is dealt with in our State.

Apparently our Constitution is similar to that of most States, no clear date being given upon which an amendment will be effective. We herewith quote

that portion of the constitutional provision which must be considered in determining the effective date:

“And if it shall appear that a majority of the inhabitants voting on the question are in favor of such amendment, it shall become a part of this constitution.”

It appears that from time to time the method of determining the effective date has varied in this State. At one time the vote was to be reported by the Secretary of State to the Governor and Council, which body would report the vote to the next incoming legislature. Subsequently, it was the custom that the adopted amendment would become effective 30 days after the Governor proclaimed that the measure was affirmatively voted upon.

Presently, the Resolve setting forth the proposed amendment contains the procedure to be followed, i.e., that the Governor shall proclaim the vote of the people, and the effective date shall be the date of the proclamation. In the Governor's proclamation it is stated that the effective date of the amendment is the date of the proclamation.

We hope that this information will be helpful to you in determining your problem, and it would be most appreciated if you could supply this office with any decision you arrive at.

JAMES GLYNN FROST
Deputy Attorney General

November 15, 1957

To Honorable Edmund S. Muskie

Re: Northeastern Resources Committee

. . . You ask if there is any constitutional or statutory bar to your entering into a charter for a Northeastern Resources Committee in behalf of the State of Maine.

The real question is whether or not you have any authority to enter into such a charter on behalf of the State. The answer to this question is that you have no such authority. Such authority would have to be granted by the Legislature. As an example I call your attention to Chapter 451 of the Public Laws of 1955, which conferred upon the Governor the authority to execute a compact with other States for Interstate Water Pollution Control.

Because of the foregoing it is probably not necessary to call your attention to the fact that the compact contains no provision for financing.

Also because of the foregoing I have made no effort to ascertain whether or not the proposed charter is such an agreement as would require the approval of Congress under Article I, Section 10, of the Constitution of the United States, although on the face of it, it would appear to be.

FRANK F. HARDING
Attorney General