

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1957 - 1958

March 19, 1958

To John R. Rand, State Geologist

Re: Title to Minerals beneath Tidal Areas

In response to your memo of March 6, 1958, it is our opinion that the Mining Bureau should, at this time, consider that the State of Maine claims title to minerals which lie beneath tidal waters seaward to a line three geographical miles from its coast line. The coast line means the line of ordinary low water along that portion of the coast which is in direct contact with the open sea.

This opinion is not to be construed in any way as limiting such claims as the State may have which are saved by the provisions of Public Law 31, 83rd Congress, 1st Session, C. 65.

JAMES GLYNN FROST
Deputy Attorney General

March 20, 1958

To Ernest H. Johnson, State Tax Assessor

Re: Gasoline Road Tax on Motor Vehicles, R. S., Ch. 16, Secs. 188-199

In answer to your memorandum inquiring as to the liability of motor carriers under the Gasoline Road Tax for gasoline consumed in travel over the private ways within Maine, it is my opinion that motor carriers are liable for gasoline consumed while traveling both private and public ways within the State.

The resolution of the above question is based on the interpretation to be placed on the words in Section 188 of Chapter 16, "on any way in this state."

Webster's Dictionary describes a "way" as ". . . a passage, road, street, track or path of any kind."

Words and Phrases describe a "way" as ". . . generally, the right of one person to travel over the land of another."

The term "way" is derived from the Saxon and means a right of use for passengers. It may be private or public, *Wild v. Deig*, 43 Ind. 455.

No Maine case was found directly in point to include both public ways and private ways within the term "way." However, in *York v. Parker*, 109 Me. 414, the court used the word "way" as a generic term to include both public and private ways.

There is some evidence in Chapter 16 of the Revised Statutes of Maine that the legislature intended to include travel on both public and private ways when it referred to operation of a vehicle "on any way in this state." In Section 170 of the Use Fuel Tax Law, a "user" is described as

"any person who uses and consumes fuel within the state. . . . to propel vehicles of any kind or character on the public highways of this state . . ."

The legislature then goes on to describe public highways. However, under Sections 188 through 199 of the Gasoline Road Tax, the legislature has deigned not to incorporate the definition of public highways as used under the Use Fuel Tax nor include in the Gasoline Road Tax the words "public highways," but uses the terms "on any way in this state" and "within this state." It would