

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1957 - 1958

Please note in Section 8, par. V, Chapter 32-B, Revised Statutes of 1954, that the mortgage must contain such terms with respect to payment of taxes and assessments as the authority may prescribe.

GEORGE A. WATHEN
Assistant Attorney General

May 7, 1958

To Roland H. Cobb, Commissioner of Inland Fisheries and Game

Re: Lease of Seaplane Base

We have your letter of April 28, 1958, and the attached letter from Paul Fichtner, M. D.

Dr. Fichtner would like your department to make its seaplane base at Rangeley Lake available for public use, and you inquire as to how this might be done legally.

There is no general statutory authority for a State department to lease its property for any purpose. There are isolated instances in which a department, such as Forestry, the Park Commission and the Aeronautics Commission, may lease its property, such authority being granted by statute. Lacking such legislative authorization, it would be necessary for the legislature to enact a law authorizing such leasing of State property.

JAMES GLYNN FROST
Deputy Attorney General

May 7, 1958

To Charles P. Bradford, Superintendent, Park Commission

Re: Digging Clams in State Parks

. . . It appears to us that if the Park Commission does not wish local clam diggers to dig within the boundaries of Reid State Park, then such activity could be prohibited by a rule and regulation properly promulgated.

We believe there is sufficient authority in the Park Commission to enact such rule and regulation.

JAMES GLYNN FROST
Deputy Attorney General

May 9, 1958

To Ruth A. Hazelton, State Librarian

Re: Film Cooperative Contract

We have your memo of April 29th, which reads as follows:

"The State Library is considering joining a cooperative film group consisting of the state library agencies of Maine, New Hampshire and Vermont. The enclosed contract has been drawn up by the New Hampshire State Library and has been approved by the Attorney General of New Hampshire.

"Are there any legal grounds which would make it impossible for the Maine State Library to subscribe to this contract?"

We are of the opinion that the contract is proper for your signature.

In brief, the contract contemplates participation by three States, each of which is to contribute one film each year to an Audio-Visual Center to be established in the University of New Hampshire. Such films will be maintained on an exchange basis, each State being eligible to borrow the films in the center, a nominal service charge being made for such use.

Chapter 42, Section 2, of the Revised Statutes, authorizes the State Librarian to conduct a system of exchanges with other libraries and institutions of learning. We think the contract is within Section 2, permitting you to conduct such exchange.

JAMES GLYNN FROST
Deputy Attorney General

May 13, 1958

To Colonel Robert Marx, Chief, Maine State Police

Re: Farm Trucks

We have your memo of April 30, 1958, requesting an interpretation of the second paragraph of Section 19 of Chapter 22, R. S. 1954.

Section 19 deals with the registration of trucks. The paragraph in question reads as follows:

"The annual fee for registration of farm motor trucks, having 2 axles only, when such trucks are used primarily for transportation of agricultural commodities, supplies or equipment to be used in connection with the operation of a farm or farms owned, operated or occupied by the registrant, shall be as follows: . . ."

Your request concerns the use of the word "primarily," as it appears in the above quoted paragraph. You ask the following questions:

"Could a truck registered as such, occasionally haul a load of household furniture owned by the farmer or another person, to be used in connection with the farm owned, or occupied by the registrant?"

Answer. Yes.

"Can a farm truck be used to work on town road construction for the purpose of working out the town taxes assessed on the farm owned by the registrant?"

Answer. Yes.

The third situation deals with the hauling of peas to a factory, the operation being for hire and the peas not being owned by the registrant of the farm truck. You do not ask for an answer to this question, but merely state that under such circumstances you have been unable to get a warrant from the court. It appears to be the belief of the enforcing officers that the word "primarily" tends to confuse the rest of Section 19 with respect to farm trucks.

We have answered your questions in the above manner and we believe that the court, with respect to the situation of hauling peas, refused to grant the warrant because of what appears to be the clear meaning of the word "primarily."