

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

**for the calendar years**

**1957 - 1958**

"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."

The interpretation of this section requires that consideration be given to the word "primarily." Such consideration would mean that a truck registered under this section need not be used exclusively in the transportation of agricultural commodities connected with the farm of the registrant. If such truck is used primarily for the purposes set forth in this statute, then we think that the intent of the statute has been accomplished and that the truck may be used for other unrelated purposes, in addition to such primary use.

JAMES GLYNN FROST  
Assistant Attorney General

May 16, 1958

To Harvey H. Chenevert, Exec. Sec., Maine Milk Commission

Re: Voting & Quorum

You have requested an opinion on the following fact situation:

The Maine Milk Commission is made up of seven members who are present at a meeting. In voting on a question, three members voted for a proposition, one voted in the negative and three abstained from voting. No required number of votes are necessary to carry an action under Chapter 33, Revised Statutes of 1954.

Would an action carry by the vote of three in the above-mentioned situation?

It is my opinion that the action has been legally carried. Referring to the *Manual of Legislative Procedure* by Paul Mason, Section 510 at page 348, it is stated: "A majority of the legal votes cast, a quorum being present, is sufficient to carry a proposition unless larger vote is required by a constitution, charter, or controlling provision of law, and members present but not voting are disregarded in determining whether an action carried."

Section 516 at page 363 states:

"There has been considerable discussion by the courts as to presumptions concerning the effect of members not voting. There appear to be two distinct situations:

(a) When only a majority of the legal votes cast is required, failure to vote or the casting of a blank ballot reduces the number of affirmative votes necessary to take an action. Under this situation a failure to vote has in part the same effect as a "yes" vote. The members not voting are sometimes said to be presumed to agree to abide by the decision of those voting."

Therefore, in your meetings, a majority of those *present and voting* would carry an action.

GEORGE A. WATHEN  
Assistant Attorney General

May 21, 1958

To Ernest H. Johnson, State Tax Assessor

Re: Property Tax Exemptions for Veterans

. . . You inquire whether or not the real estate of a qualified veteran who has claimed an exemption under Paragraph III of Section 10 of Chapter