

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1957 - 1958

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