

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1957 - 1958

State of Maine over that tract was the right to service of process arising out of activities occurring outside the reservation.

Our Court said, in *State v. Cobaugh*, supra.:

“The laws of this state do not reach beyond its own territory and liquor sold in the ceded territory (Togus) cannot be considered sold in violation of the laws of this state.”

The Court was concerned, in this case, with a law dealing with liquor kept and deposited “in the state intended for unlawful sale *in the state* (emphasis supplied)”.

Consistent with the decision in the Cobaugh Case, a proper interpretation of a statute authorizing residents of federally-owned property to vote would be that such statute had no effect, because residents of Togus would not be persons having a residence established “in this state” as required by the Constitution.

The legal situation with respect to any federally-owned property would be similar to that of Togus, either by virtue of special legislation, as in the case of Togus, or by the provisions of Chapter 1, Section 10, Revised Statutes of 1954 as follows:

“Exclusive jurisdiction in and over any land acquired under the provisions of this chapter by the United States shall be, and the same is ceded to the United States for all purposes except the service upon such sites of all civil and criminal processes of the courts of this state; provided that the jurisdiction ceded shall not vest until the United States of America has acquired title to such land by purchase, condemnation or otherwise; the United States of America is to retain such jurisdiction so long as such lands shall remain the property of the United States, and no longer; such jurisdiction is granted upon the express condition that the state of Maine shall retain a concurrent jurisdiction with the United States on and over such lands as have been or may hereafter be acquired by the United States so far as that all civil and criminal process which may lawfully issue under the authority of this state may be executed thereon in the same manner and way as if said jurisdiction had not been ceded, except so far as said process may affect the real or personal property of the United States.”

JAMES GLYNN FROST
Deputy Attorney General

July 2, 1958

To Walter H. Kennett, Director, Civil Defense & Public Safety

Re: Civil Defense in Unorganized Territory

We acknowledge receipt of your memorandum of June 16, 1958, in which you inquire as to the level of the government, state or county, that is responsible for organizing, financing and directing civil defense operations in unorganized towns.

Unorganized towns have no officers such as selectmen or assessors who would be responsible for such organization and operation of civil defense programs.

No doubt a properly organized county program would incorporate within its framework programs in relation to unorganized towns.

JAMES GLYNN FROST
Deputy Attorney General

July 7, 1958

To Frank S. Carpenter, Treasurer of State

Re: Economic Advisory Committee

We have your memo dated July 3, 1958, which reads as follows:

"Is the Economic Advisory Committee to be used only on highway bonds, or are they to be asked for advice on all State bonds?"

"Will you please advise me at the earliest possible moment as we are beginning to work on the Penobscot Bay Ferry bonds?"

"I refer you to Chapter 23, Section 129 and 130 Revised Statutes of Maine, 1954, Volume I, Pages 389 and 390."

It is our opinion that the Economic Advisory Committee is to be used only on highway and bridge bonds.

Section 129 of Chapter 23 of the Revised Statutes establishes the Economic Advisory Board and sets forth its position and structure. We herewith quote that portion of Section 130 of Chapter 23 which is pertinent to the present question:

"The state, under proper authorization of the governor and executive council, shall issue all highway and bridge bonds. The governor and executive council shall consult with the said board for its recommendations as to whether conditions are favorable for any such issuance."

Under the provisions of law above referred to it appears that the sole function of the Economic Advisory Board is to give advice concerning the issuance of highway and bridge bonds.

JAMES GLYNN FROST
Deputy Attorney General

July 8, 1958

To Kermit Nickerson, Deputy Commissioner of Education

Re: Admission to Secondary Schools

You request an opinion regarding the authority of superintending school committees to set standards for admission to secondary schools.

(1) Pupils having completed the elementary schools in a unit not maintaining a high school are governed by Sections 105 and 107 of Chapter 41. If the administrative unit contracts with the superintending school committee or school directors of a nearby unit or with the trustees of an academy, there are two possible groups which could set admission standards: 1) the joint committee; 2) the school directors or trustees or the superintending school committee of the town furnishing the education. If the unit sans a high school does not contract for the education, the student may attend such a school elsewhere, where he can gain entrance from those in charge. Section 107 provides that the unit which