STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1959 - 1960

"II. Any plumber duly licensed under the provisions of sections 170 to 194, inclusive, of Chapter 25, in so far as the work covered by said sections is involved;"

In other words, contrary to the assumption contained in your proposed memo that an oil burnerman is doing the work of a plumber, this statute permits a plumber to hook up water pipes to heating equipment without being required to first obtain an oil burnermen's license. The very section quoted pre-supposes that such connection of water pipes is an oil burnerman's job, which a plumber can do without further license.

In conclusion we would point out that custom and usage will not prevail over a legislative act. Chapter 82-A of the Revised Statutes fills a field which, though occupied by virtue of opinion of the Attorney General in 1944, was never contemplated by legislative act until the enactment of said Chapter 82-A in 1955.

The very limited definition of plumbing contained in Chapter 25, section 179, V, certainly is not inconsistent with the above observations: "The art of installing in buildings the pipes, fixtures and other apparatus for bringing in the water supply and removing liquid and water-carried wastes."

JAMES GLYNN FROST
Deputy Attorney General

September 8, 1959

To: Major-General E. W. Heywood, Adjutant General

Re: State Armories — Joint Utilization of

We have your recent request for an opinion as to whether or not armories in this State are subject to joint utilization projects.

While "joint utilization" is not defined in the material you left with us, it appears that it means the use of our armories by members of the armed forces other than National Guard or State organized military forces.

From our examination of the statutes it appears that armories can be built by two sources:

1. By towns (Chapter 14, section 18, R. S. 1954) in cooperation with the State, or,
2. By the military defense commission from the military fund (Chapter 14, section 18, R. S. 1954).

An armory provided by a town is for the exclusive benefit of the National Guard or other authorized State military or naval forces. Chapter 14, section 18, R. S. 1954: "The municipal officers shall provide and maintain for each unit of the national guard, or other state military or naval forces located within the limits of their municipality, armories and other necessary buildings, the suitability of which shall be determined by the state military defense commission."

An armory provided by the military defense commission from the military fund might be subject to joint utilization. Chapter 14, section

17: "The commission is further authorized and directed to cooperate with the federal government or municipalities in establishing and coordinating national defense in this state, especially in the providing of equipment, training, facilities, suitable quarters for troops and supplies, and buildings and lands for military purposes. The commission may acquire real property by right of eminent domain in the manner prescribed by law for the taking of land for highway purposes, and both real and personal property by purchase, gift or otherwise, for the purpose of construction or maintenance of armories . . . and the procuring of equipment and supplies for military purposes."

Military purposes above-mentioned is defined in section 101 of Chapter 14 as follows:

> "Wherever in this chapter the words "military purposes" appear, they shall mean any purposes that will aid in facilitating the preparation for or conduct of war whether for defense or offense or whether on land, sea or in the air."

In summary it appears that unless an armory has been built from the funds of the state military defense commission, joint utilization would be in violation of our statutes which limit the use of such other armories by members of the National Guard or other State organized military or naval forces.

JAMES GLYNN FROST
Deputy Attorney General

September 21, 1959

To: Marion Martin, Commissioner of Labor and Industry

Re: Minimum Wage Law (P. L. of 1959, C. 362)

We have your request for an opinion on the following:

> "We have received another question concerning interpretation of the new Maine Minimum Wage Law on which we should like a ruling.
>
> "Section 132-B III D exempts 'any individual engaged in the activities of a public-supported non-profit organization.' The question is whether this means "ordinary employees" of a non-profit organization, such as the YMCA or whether it is intended to have some different meaning. The questioner notes the use of the word "employed" in the same Section in connection with private nursing homes and hospitals."

It is our opinion that the phrase "engaged in the activities" is synonymous with the word employed. We therefore feel that the personnel governed by such a phrase would be the "ordinary employees" of the YMCA.

JAMES GLYNN FROST
Deputy Attorney General