

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

**for the calendar years**

**1959 - 1960**

MAINE STATE  
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December 6, 1960

To: Dr. Warren G. Hill, Commissioner of Education

Re: Educational Television

I have your request for an opinion regarding whether or not the Department of Education can become a member of Eastern Educational Network, Inc.

Chapter 204, Private & Special Laws of 1955, sets up a committee to study the possibilities of the use of television in an expanding program of education for the citizens of the State and the proper relationship of state agencies to any public or private effort to develop this potential.

This committee was reactivated by Chapter 181, Private & Special Laws of 1957.

The Department of Education is an agency of the State and as such has only those powers as set forth in the statutes. I am unable to find any authority for the Department of Education to join this corporation.

GEORGE A. WATHEN  
Assistant Attorney General

December 6, 1960

To: R. W. Macdonald, Chief Engineer of Water Improvement Commission

Re: Transferring a Waste Discharge License

We have your request for an opinion as to whether or not a waste discharge license issued by the Water Improvement Commission can be transferred from the party who initially receives the license to a second party not involved in the initial request.

Under Chapter 79, section 9, Revised Statutes of 1954, applications for licenses must be in writing signed by the applicant and certain requirements of notice and hearing must be met. Under section 8 of Chapter 79, no person or corporation may discharge waste without first obtaining a license from the Commission.

Under neither of these sections is the Water Improvement Commission given any power to transfer a license from the initial licensee to a subsequent party. It is, therefore, our opinion that such a transfer is not within the powers of the Water Improvement Commission and would not be proper.

THOMAS W. TAVENNER  
Assistant Attorney General

December 9, 1960

To: John H. Reed, Governor of Maine

Re: Incompatibility

I have your request regarding whether it would be compatible for one to hold the office of a Commissioner on the Board of Pharmacy of this State and at the same time be a legislator.

I have reviewed the opinions compiled in this office regarding the incompatibility of holding an office in more than one branch of the State Government and am of the opinion that the two offices would be incompatible.

GEORGE A. WATHEN  
Assistant Attorney General

December 23, 1960

To: E. L. Newdick, Commissioner of Agriculture

Re: Airplane Insurance for our Marketing Specialists

We have your letter of November 23, 1960 in which you inquire as to the legality of the Maine Potato Commission's paying for a group flight policy for those employees of your department doing work servicing and promoting Maine potato advertising.

We are of the opinion that flight insurance would be a proper expenditure of funds and could appropriately be paid by the Maine Potato Commission under its agreement with you for servicing and promoting Maine potato advertising. However, authority for the purchase of such insurance should be obtained from the Governor and Council.

It has long been the policy of the state that the Governor and Council authorize the procurement of insurance both on State property and other forms of insurance. For this reason we believe a Council Order should be prepared for presentation to the Governor and Council with respect to this problem.

JAMES GLYNN FROST  
Deputy Attorney General

December 23, 1960

Mr. Harold Dow  
Eliot, Maine

Dear Harold:

This is regarding your oral request for an opinion as to whether or not you, as a member of the Interstate Bridge Authority, could also be elected and serve as a Governor's Counsellor.

As you know by the Act creating the Interstate Bridge Authority, the Governor with the advice and consent of the Council, appoints members of the Authority. It is further provided that members may be removed by the Governor and Council for cause. These facts alone, in my opinion, create a conflict between the two offices.

I might add further that the term "civil officer under this state" as used in Article V, Part Second, Section 4 of the Maine Constitution would embrace a member of the Interstate Bridge Authority. The office is created, the powers given, and the duties defined directly by act of the legislature.