

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT
OF THE
ATTORNEY GENERAL

for the calender years

1961 - 1962

zone. It does not include all surrounding areas within a distance of 3000 feet from the nearest boundary.

FRANK E. HANCOCK

Attorney General

February 14, 1962

To: Lawrence Stuart, Director of Park Commission

Re: Registration Fee for Municipal Ski Tow

We have your request for an opinion as to whether or not the Town of Millinocket must pay the customary registration fee for its municipal ski tow. Under the terms of Chapter 325, Public Laws of 1961, the Passenger Tramway Safety Board is empowered to establish annual fees not in excess of \$300 to accompany each application for registration. The question has arisen as to whether or not a municipality must pay this fee for a municipally owned ski tow.

Under the provisions of Revised Statutes, Chapter 91-A, Section 10, all municipalities are exempted from taxation on their property and polls. This exemption covers only taxes and is not applicable to fees for services rendered to the municipality. A fee is defined as "A charge fixed by law for services of public officers or for use of a privilege under control of government." (Black's Law Dictionary, Fourth Edition, Page 740). A tax on the other hand, is "A pecuniary burden laid upon individuals or property to support the government" (Black's Law Dictionary, Fourth Edition, Page 1628).

It is our opinion that the fee assessed by the Passenger Tramway Safety Board is not a tax and that, therefore, the Town of Millinocket must pay said fee in making its application for a license to operate a ski tow.

THOMAS W. TAVENNER

Assistant Attorney General

February 21, 1962

To: Laurence F. Decker, Chief Engineer, Inland Fisheries and Game

Re: N. E. Tel. & Tel. Co. request for a Right of Way to cross State property.

We have your request of February 19, 1962, for an opinion as to what type of instrument should be executed in order to grant to the New England Telephone and Telegraph Company an easement over state-owned land in the Town of New Gloucester.

An easement is a right in the owner of one parcel of land to use the land of another for a specific purpose, *Black's Law Dictionary*, 4th ed., p. 599. Therefore, an easement is an interest in real property. The real property of the State of Maine can be transferred only by authority of the state legislature, R. S., c. 16, § 85. Therefore, the Department of Inland Fisheries and Game has no right to give to any person an easement over state property.

A license is "Permission or authority to do a particular act or series of acts on land of another without possessing any estate or interest therein." *Black's Law*