

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT
OF THE
ATTORNEY GENERAL

For the Years
1967 through 1972

June 6, 1968
Education

Kermit S. Nickerson, Deputy Commissioner

Authority of Organized Plantations to Accept Gifts

SYLLABUS:

Since the Legislature has not given organized plantations the power to receive gifts of property, such a gift may not be accepted by such a plantation.

FACTS:

The Federal Surplus Property Office has posed for answer through your office the following question:

QUESTION:

May an organized plantation accept a gift of real property from the Federal Government?

ANSWER:

No. However, if the property is to be used for legal plantation purposes, the cost of acquiring same may be a "legal plantation expense" for which money may be raised by taxation and expended.

OPINION:

The organized plantation is a political entity, formed under enabling legislation, 30 M.R.S.A. § 5602-5605 (1964), existing only to serve the needs of government and, like other municipal corporations, possessing no powers not conferred upon it by statute. Compare *Camden v. Camden Village Corp.*, 77 Me. 530, 1 Atl. 689 (1885) (village corporation); *Hooper v. Emery*, 14 Me. 375 (1837) (town); *Farris ex rel. Anderson v. Colley*, 145 Me. 95, 73 A. 2d 37 (1950) (city).

There is no statute which permits organized plantations to accept gifts of real property. Such legislative permission is a condition precedent to acceptance of a gift by an organized plantation. The concern of the Legislature that such gifts be properly received and administered by political subdivisions of the State is manifest in 30 M.R.S.A. § 1903 (1964), by which municipalities are empowered to accept gifts of property, provided that the property is received in trust and for certain specified purposes.

30 M.R.S.A. § 5614 (1964) in part provides: "All plantations may raise and expend money . . . for sums necessary for *legal plantation expenses*." (Emphasis supplied.) It would follow, therefore, that if the property in question was to be used for a legal plantation purpose, the cost of purchasing same would be a "legal plantation expense" within the meaning of the statute. Otherwise, the plantation must seek legislative authority to acquire the property.

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