

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT
OF THE
ATTORNEY GENERAL

For the Years
1967 through 1972

REASONS:

The portion of the above quotation that raises the question, "and also providing that certification is made, in writing, that such action will not result in an increased request for Personal Service moneys from the Legislature" first appeared in the 1965 General Fund Appropriation Act, P. & S. L. 1965, Chapters 78 and 159. This added provision changed the meaning of the provision as it had previously been written. As a matter of fact, this additional clause virtually nullified the original language. Previously, the Legislature had said that departments could reclassify positions and move personnel into new positions as long as money was available within the appropriation.

The new language which was added said that reclassification and moving of positions not only must be done within the money appropriated, but in such a manner as not to result in an increased request for funds from future Legislatures. This means that reclassifications upward are virtually stopped. Any reclassification of a position upward would necessarily cause an increase request for funds in the future, except insofar as a department may also lower job classifications on sufficient positions to offset any upward reclassifications.

GEORGE C. WEST
Deputy Attorney General

April 22, 1969
Real Estate Commission

Leo M. Carignan, Exec. Secretary

Publication of Enforcement Information under 32 M.R.S.A. § 4057

SYLLABUS:

Maine Real Estate Commission may publish information relative to the enforcement of their laws which it deems of interest to the public.

FACTS:

The Real Estate Commission feels that in the best interest of its licensees it will publish in its quarterly newsletter information relative to recent cases which involved enforcement of its license laws.

QUESTION:

May the Commission publish in its quarterly newsletter the pleadings and decisions in such cases.

ANSWER:

Yes. .

REASON:

The Commission may publish what it deems of interest to the public relative to

enforcement of their laws and is required by law to publish the names of those whose licenses were suspended or revoked in the year preceeding the publishing of the list of the licensees. 32 M.R.S.A. § 4057. Inasmuch as pleadings, decisions and docket entries are public, the Commission may publish them. The Commission, of course, must present the information fairly.

In the event that the Commission wishes to publish such information, it should publish all the pleadings and the decision, not merely excerpts therefrom; or in the alternative, publish only the decision.

GARTH K. CHANDLER
Assistant Attorney General

May 7, 1969
Parks & Recreation

Lawrence Stuart, Director

Disposition of Buildings in the Restricted Zone of the Allagash Wilderness Waterway

SYLLABUS:

Determination of what structures are to remain in the restricted zone of the Allagash Wilderness Waterway lies with the State Park and Recreation Commission and there is no necessity for Governor and Executive Council approval for the tearing down and removal of structures within the restricted zone.

FACTS:

The Act creating Allagash Wilderness Waterway provides, inter alia, that the State Park and Recreation Commission is required to remove all existing structures within the restricted zone of the waterway not necessary to the operation of the waterway.

QUESTION:

Is it necessary to obtain Governor and Executive Council approval to tear down and remove any buildings or other structures which are not needed in the operation of the waterway?

ANSWER:

No.

OPINION:

12 M.R.S.A. § 666, subsection 1 reads as follows:

“1. Structures. No new structures or expansion of existing structures shall be permitted within the restricted zone, except those structures essential to state service agencies, those structures determined by the commission to be essential in maintaining water level controls, and such temporary structures as may be determined by the commission to be necessary for watercourse crossing and access. *All existing structures are to be removed except those deemed necessary by the commission to carry out the intent of this chapter.*” (Emphasis supplied.)