

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT
OF THE
ATTORNEY GENERAL

For the Years
1967 through 1972

ANSWER:

No.

REASONING:

The law in Maine as applied to these facts is best defined by *Berube v. White Plains Iron Works, Inc.* 211 F.Supp. 457 (1962). The facts in that case involved the issue of State jurisdiction over a tort occurring on Loring Air Force Base and whether the tort-feasor was doing business in the State. The Court said:

“Loring Air Force Base was established some years prior to the accident at which time there was in effect a statute by which the State of Maine ceded to the United States exclusive jurisdiction over lands which it might take for constitutional purposes. Such a grant results in a transfer of sovereignty over the ceded land to the United States . . . Territorial jurisdiction in such a case is vested in the United States, and State regulation of activities upon such land is illegal.”

The statutes of cession referred to above were Me. Rev. Stat. Ch. 2 § 10, 11 (1930), Me. Rev. Stat. Ch. 1 § 11, 12 (1944) and Me. Rev. Stat. Ch. 1 § 9 (1954). These sections were subsequently repealed by P.L. 1959, Ch. 213 § 1 now 1 M.R.S.A. § 8-10 (1964). The present state law, however, does not redefine the issue of jurisdiction; but only states the manner in which land in the future will be ceded to the U.S. Government. The exclusive jurisdiction of the United States in Loring Air Force Base vested under the prior acts and cannot be subsequently modified without concurrence of the United States. *In Re Ladd*, 74 Fed. 31 (Neb. 1896).

The interpretation by the District Court in *Berube* agrees with prior Maine case law on this subject. In *Brooks Hardware Co. v. Greer*, 111 Me. 78, 87 A. 889 (1913) the court said that “the effect of a cession of jurisdiction over certain territory within a state to the United States, by consent of the state, reserving to the state only concurrent jurisdiction to serve civil and criminal processes therein, is to put that territory under the exclusive jurisdiction and dominion of the United States, with the single exception expressed, at least when the property is purchased for the constitutionally specified purposes.”

In our case *Berube*, supra, recognized that the acquisition of Loring Air Force Base was for a “constitutionally specified purpose.” Those purposes are spelled out in Art. I, Section 8, Clause 17 of the United States Constitution. In view of the above interpretation, the State of Maine may not constitutionally exercise its jurisdiction with regard to its labor laws on Loring Air Force Base.

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Assistant Attorney General

July 14, 1970
Aeronautics

Linwood F. Wright, Director

Possible revocation of Aircraft Dealers Registration.

SYLLABUS:

An individual cannot retain an aircraft dealer's registration certificate under the terms

of 6 M.R.S.A. §14 (4) unless the individual maintains a permanent place of business where the individual is principally engaged in the business of buying and selling aircraft.

FACTS:

A physician, a holder of an aircraft dealer's registration certificate, has an extensive medical practice. As such, he is principally employed in an occupation which is not the manufacturing, buying or selling of aircraft. He does not maintain a permanent place of business where the holder is principally engaged in the business of buying and selling aircraft. The physician operates an airplane under the dealer registration certificate for pleasure and in the course of his medical practice.

QUESTIONS:

1. Is the holder of the aircraft dealer's registration certificate a bona fide dealer within the meaning of the provisions of 6 M.R.S.A. § 14 (4) such that the holder can enjoy the benefits and privileges of such registration?

2. If the holder is not a bona fide dealer, may the Director revoke the aircraft dealer's registration certificate?

3. If the individual does not continue to hold a dealer's registration certificate, must the person register any aircraft he owns in the usual manner?

ANSWERS:

1. No.
2. Yes.
3. Yes.

REASONS:

Issuance and retention of a dealer's aircraft registration depends upon the Director being satisfied that the holder will engage principally in and continue to be engaged principally in "the business of manufacturing, buying and selling of aircraft". 6 M.R.S.A. §14 (4). Annual renewal of the registration certificate is then expressly conditioned upon the maintaining of a "permanent place of business where said applicant is principally engaged in the business of buying and selling aircraft." 6 M.R.S.A. § 14 (4). If the holder is in fact engaged principally in an occupation other than the business of buying and selling aircraft, then the aircraft dealer's registration certificate is subject to being revoked by the Director.

The law provides that the Director may revoke a certificate "after notice and opportunity for hearing" for the reason of "violation of any provisions of chapters 1 to 13 or any rule or regulation duly issued hereunder". 6 M.R.S.A. § 14 (3) and 6 M.R.S.A. §15. Not maintaining a permanent place of business where the holder is principally engaged in the business of buying and selling aircraft or the engaging in an occupation or business which is not the manufacturing, buying or selling of aircraft can be said to be in violation of express provisions of 6 M.R.S.A. § 14 (4) as well as the spirit of the dealers registration law.

Once the person no longer holds an aircraft dealer's registration certificate, he must then comply with the registration requirements of any aircraft which he owns. 6 M.R.S.A. §14 (1) and 6 M.R.S.A. § 14(1) (A).

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