

# MAINE STATE LEGISLATURE

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DEPARTMENT OF THE ATTORNEY GENERAL  
AUGUSTA, MAINE 04333

May 17, 1978

Captain Flenner  
Maine Maritime Academy  
Castine, Maine

Re: Authority of the Maine Maritime Academy with Respect  
to Property.

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Dear Captain Flenner:

In our telephone conversation of May 9, 1978, you indicated that a question had arisen as to the authority of Maine Maritime Academy to own and, therefore, to dispose of, by sale or otherwise, real or personal property. You stated that the suggestion had been made that the Academy is a State agency and by definition does not have such authority.

Without examining the question whether State agencies in general have such authority, it is apparent from the laws governing the Academy that the Academy does. The Academy was created as the Maine Nautical Training School by P. & S.L. 1941, c. 37, and is therein designated

. . . a body corporate and politic, having the same rights, privileges and powers as have corporations organized under the general law. . . .

This language has not been altered to the present day, though the paragraph in which it appears has been amended several times in other respects. By P. & S.L. 1947, c. 24, the Academy was declared to be a State agency. This amendment was accomplished by the addition of a new paragraph numbered 1-A, which follows upon paragraph 1 in which appears the language quoted above.

No single, simple definition encompasses all entities which are or may be State agencies. Such entities may be established in various ways, be directed to varying purposes and ends and possess a variety of powers, rights and obligations in order to accomplish their ends. There is no inherent incompatibility in provisions which grant to a single entity status as a body corporate and politic with particular rights, privileges and powers and status as a State agency. Since there is no such incompatibility, rules of statutory construction dictate that both provisions stand and are to be read to give effect to both. The application of this rule leads to the conclusion that the Legislature has deemed Maine Maritime Academy a State agency possessing some attributes of corporations organized under the general laws and that since corporations organized under the general laws of Maine, whether for profit or nonprofit, have authority to sell property, cf. 13-A M.R.S.A. § 202(I); 13-B M.R.S.A. § 2020(I), the Maine Maritime Academy has such authority.

I trust this will clarify the matter at issue and provide the assistance needed. If I can be of further help, please call.

Yours truly,



KAY R. H. EVANS  
Assistant Attorney General

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