

MAINE STATE LEGISLATURE

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August 7, 1942

Frank I. Cowan, Attorney General

William D. Hayes, State Auditor

Your query of August 6th in regard to the distinction between "endowment fund" and "trust fund" is a little like a query as to the distinction between a "man" and a "human being". All men are considered human beings, but all human beings are not men. About half of them are women. However, there is a very distinct difference, of course, between the attitude which the State takes under certain circumstances toward general trust funds and endowment trust funds. The general trust fund can, of course, be for any purpose, public or private, lawful or unlawful, and can provide for the creation of an activity starting from zero. (Whether or not the courts will enforce the provisions of the trust is another matter.)

An endowment trust fund is usually used in connection with something already existing, as, for instance, endowment of a chair in a college or the endowment of a bed in a hospital or giving money to an Institution to assist in carrying on its activities. As I understand the use of the word, it applies practically exclusively to continuing activities. The gift or endowment may or may not limit the use of the gift to income. Sometimes an endowment gift provides that a certain percentage of the income may be used immediately and the rest added to the principal for accumulation. Sometimes there is a time limit on the length of time the principal must be held by the beneficiary and the latter is given authority to use any part or all of the principal after some future date.

There are just as many different kinds of endowment gifts as there are individuals seeking to make the gifts, and Institutions have to be careful in the acceptance of endowment gifts lest they take on something that would be burdensome. Sometimes a gift is tied to a requirement that certain physical property shall be kept on display. Sometimes a citizen gives land to a city for a park and gives a certain amount of money for endowment of the park, which amount is so grossly insufficient that the city cannot afford to accept the gift.

I could go on for a long time on the subject, but I believe I have stated enough to cover the idea concerning which you wanted an expression of opinion.

Attorney General

FlC:gh