

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1943--1944

July 2, 1943

Harrison C. Greenleaf, Commissioner Institutional Service

Support of Inmate of Pownal State School committed by Municipal Court

Section 450, Ch. 1, P. L. 1933, provides for support of inmates of Pownal and reads in part as follows: "All indigent and destitute persons in this state, who are proper subjects for said school, and have no parents, kinsmen, or guardian able to provide for them, may be admitted as state charges and all other persons in this state, who are proper subjects for said school, when parents, kinsmen, or guardian bound by the law to support such persons are able to pay, shall pay such sum for care, education, and maintenance of such persons as the department shall determine . . . ; and the state may recover from any person admitted to said school, if able, or from persons legally liable for his support, the reasonable expenses of his support in said school."

On November 3, 1942, this office rendered an opinion that Chapter 245, P. L. 1941, An Act Relating to Commitment of Feeble-minded Juvenile Delinquents, did not result in Pownal State School becoming a penal institution. It does, however, create a new method of commitment to the school.

It is the opinion of this department that the provisions of Section 450, Chapter 1, P. L. 1933, above quoted apply to commitments under Chapter 245, P. L. 1941. If the parents, kinsmen or guardian of are able to pay for her support and arrangements for amicable settlement cannot be made, legal action to collect might be advisable.

FRANK A. FARRINGTON

Deputy Attorney-General

July 2, 1943

J. J. Allen, Controller

Accounts & Controls

Pay-as-you-go Tax

I have your memo of June 30, 1943, asking for a ruling "as to the authority of the Controller to withhold the so-called Pay-As-You-Go Tax from the pay of State of Maine employees."

Under date of December 30, 1942, this office gave an opinion to Mr. Kane, the former State Controller, to the effect that as a contribution to the war effort and to simplify the problem of the collecting authority for the United States Government, it would be proper to withhold the "Victory Tax" from the pay of State employees, but that the withholding of this tax for the Federal Government and the forwarding of the money to the Federal collecting agency must not be regarded

as a waiving of the rights of the State to object at any time on the ground that the Federal law constitutes an illegal direct taxation against the States or to raise any other objection, with the further suggestion that the Controller should secure the benefit of an order of the Governor and Council before making the deductions.

The present Legislature passed an Act, which is Chapter 224, P. L. 1943, authorizing the withholding of "the federal Victory Tax so-called" from the salaries and wages of all state, county and municipal officials and employees and further authorizing the treasurers of State, the county treasurers, and the treasurers of the several municipalities to act as custodians of such monies and to pay them over to the Collector of Internal Revenue as required by the Federal Law. The Act further stated that its purpose was "to give to the federal government a temporary grant and not to relinquish any rights of the state of Maine."

Since the passage of that Act, which takes effect July 9, 1943, the Congress of the United States has expanded the "Victory Tax" law and has included in the expanded law provision for withholding current income taxes of the people of the country. The "Victory Tax" still continues, but under certain circumstances set out in the Federal Act it is not apparent to the tax-payer.

In my opinion the provisions of P. L. 1943, Chapter 224, were not intended by the Legislature to cover any specific percentage of federal tax, but were intended to protect the treasurers in withholding from wages and salaries and paying over to the proper Federal collecting agency any Federal tax which includes the "Victory Tax" or which follows the same general administrative features as the "Victory Tax." The new withholding tax law not only includes the "Victory Tax," but it is based on the same fundamental ideas and includes all of the essential administrative features of the "Victory Tax." You are therefore, in my opinion, justified in making the deductions provided by the Federal statute, and the treasurers of the State, the counties, and the municipalities have full authority under our statute to act as custodians of moneys so withheld and to pay them over to the Collector of Internal Revenue.

FRANK I. COWAN

Attorney-General

July 7, 1943

To: Governor Sewall, the Secretary of State, the Secretary of the Jointly Contributory Retirement System, and President Hauck, Chairman ex officio of the Board of Trustees of the University of Maine

Subject: Status of the University of Maine

I have three inquiries for opinions as to the attitude which the State should take toward certain activities of the University of Maine and the extent to which certain State Statutes apply to this institution. These questions are as follows:

1. In view of the opinion of the Law Court of the State of Maine in the year 1909, in which appears a declaration that the University of