

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1943--1944

perform surgical operations with the use of instruments; but a chiropractor may be licensed to practise surgery after passing the State Board of Medical Examiners.

The last two paragraphs define the rights of the practitioners of osteopathy and chiropractic. The State Health Department could not make a rule, nor regulation, which would enlarge upon these rights, nor take anything away from those that are defined in the present law.

JOHN G. MARSHALL

Assistant Attorney-General

August 11, 1943

Philip D. Stubbs, Inheritance Tax Commissioner

P. L. 1933, Chapter 148, Section 32, provides as follows:

“Inspection of documents filed with commissioner. Papers, copies of papers, affidavits, statements, letters and other information and evidence filed with the commissioner in connection with the assessment of taxes upon legacies and successions shall be open only to the inspection of persons charged or likely to become charged with the payment of taxes in the case in which such paper, copy, affidavit, statement, letter or other information or evidence is filed, or their representatives, and to the commissioner, his deputies, assistants and clerks and such other officers and persons as may, in the performance of their duties, have occasion to inspect the same for the purpose of assessing or collecting taxes.”

It is my understanding that the reason for the language in this section requiring privacy was to check a practice that had grown up in this State under which certain salesmen of corporate stocks got information in regard to inheritances from the State departments, and, armed with this knowledge, proceeded to solicit the beneficiaries.

The intent of the Legislature is clearly expressed in the Statute quoted, and inasmuch as the Inheritance Tax Commissioner is charged with the purpose of assessing and collecting the inheritance taxes, all papers, copies and other information filed with the Commissioner must be kept by the Commissioner and no copies of such papers, copies of papers, or information are to be sent to any other departments except as provided in said Section 32.

In view of the general nature of the duties of the State Auditor and his assistants and his duty to make or have made a post-audit of all State accounts, Section 32 must not be interpreted as barring him or them from inspection of the records in the office of the Inheritance Tax Commissioner.

FRANK I. COWAN

Attorney-General

August 11, 1943

Guy R. Whitten, Deputy Commissioner

Insurance

Controversies between companies and individuals

It is my opinion that the State has no jurisdiction in the matter of private controversies that may arise in individual cases between insur-

ance companies and the persons with whom they do business. If the conduct of a company has been such that in the opinion of the Insurance Commissioner it is unsafe for any person to deal with that company, then the Commissioner may very well be justified in interfering. I have a private opinion as to whether or not, in the case to which you refer in your memorandum of August 6th, the company should pay the claim in American or Canadian funds; but that private opinion is based purely on what little evidence has been laid before me, which is by far insufficient on which to make a judicial decision. Even if I had a definite opinion, based on sufficient evidence, it would be an impertinence on my part to express it in this particular case. The only proper place to take such questions is the court. Any attempt by a State or Federal department to tell a business concern how it shall operate, under conditions such as those which you have stated to me, would be tyranny of the worst sort. It is true that in the Federal Government at least, there is a very pronounced trend toward directing the internal affairs of all business concerns. That trend is undemocratic and savors of either Communism or Naziism, which in substance are not very different.

FRANK I. COWAN

Attorney-General

August 17, 1943

Harry V. Gilson, Commissioner

Education

You ask for an interpretation of Section 64 of Chapter 19, R. S. 1930, as amended. The particular part of said section is the next to the last sentence, which reads as follows:—

“Provided, however, that said committee, by a majority vote of its full membership, after due notice and investigation, may, for cause, discharge a superintendent of schools before the expiration of the term for which he was elected, and after such discharge the salary of said superintendent shall cease.”

“Said committee” is the joint committee.

In answer to your question 1, it is the opinion of this Department that the answer is “No.” It was not the intent of the law that a majority of one superintending school committee should control the total votes of that committee. The sentence quoted above presupposes that the discharge shall be only on majority vote of the full membership of the joint committee. To allow the total number of votes of one superintendent committee to be cast in accord with the majority results in cancellation of dissenting minority votes and defeats the intent of the law.

It is the opinion of this department insofar as the mechanics of voting are concerned that the answer to question 2 is “Yes.”

FRANK A. FARRINGTON

Deputy Attorney-General