

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1943--1944

Our survey of the whole situation throughout the State seems to lead us inevitably to the conclusion that if any religious group wishes to hold religious services, it is perfectly free to make use of any privately owned buildings or halls, the owners of which are willing to have them meet there, or to erect places of worship or schools for religious instruction. That right is definitely protected by both the Federal and the State Constitutions. However, public school buildings are provided from funds derived from taxation of all the people. The question of sectarianism and the question of religious affiliation cannot be raised in connection with the taxation of any one of our citizens. Whether a man is Christian, Mohammedan or Jew, and what particular dogma he follows in his worship are wholly immaterial. He is taxed and his money is used for the erection of school buildings. Those buildings are dedicated to purposes of secular education as distinguished from religious education. Knowing as we do that controversies over religious dogmas have been one of the great sources of trouble in this world, and recognizing the fact as we do that we ourselves as a people have not yet advanced to that point where we can treat with complete toleration the religious views of our neighbors, it seems to me that we are compelled by our knowledge of the facts to maintain a strict construction of the law. In my opinion, a school board in any municipality of this State cannot lawfully permit the use of a public school building by any group for any particular type of religious training. Such, I believe, was the intention of the framers of the State Constitution, and such, I believe, has been the intention of our legislature in all the enactments that it has made since the foundation of our government.

FRANK I. COWAN

Attorney-General

September 1, 1943

Carl W. Maxfield, D.M.D., Secretary
Board of Dental Examiners,
31 Central Street,
Bangor, Maine.

Dear Doctor,

I have just written to Dr. to find out if he has anything further in connection with the newspaper ad for a dentist. I asked him specifically, if he has one of the letters enclosing an application and a dollar. I suggested to him that if he has he either send it to me or give it to you to send to me.

R. S. Chapter 21, Section 34, as amended by P. L. 1935, Chapter 97, Section 5, still continues to provide that "said board may revoke a certificate . . . if the person named therein . . . is guilty of immoral or unprofessional conduct. . . ."

As far as I know, the courts of Maine have not passed on this particular point; but the court of California in the case of *Parker v. Board of Dental Examiners*, 216 Cal. 285, held that the acts of dentists in aiding an unlicensed person to practise dentistry and in unlawfully using a fictitious name in practising dentistry, constitutes unprofes-

sional conduct within their statute, authorizing revocation or suspension of a dentist's license. I have not the slightest doubt that our court would hold that operating with this dental concern as proposed in the description of an interview which Dr. sent to you, is unprofessional conduct and that you have full right to revoke the license of any dentist in the State of Maine who coöperates in any such activity.

Very truly yours,

FRANK I. COWAN

Attorney-General

September 11, 1943

David H. Stevens, Assessor

Bureau of Taxation

Payment of Poll Taxes to Jackman Plantation

Reference is to your memorandum of September 10th.

It is my opinion that the State Tax Assessor would be justified in making refunds to Jackman Plantation of poll taxes paid by electors registered in Jackman, who vote in the voting precinct maintained at Rockwood.

The Legislature, by Chapter 19, P. L. 1935, authorized the setting up of this polling place as part of the machinery for Jackman. The fact that the voter does not actually cast his ballot within the territorial limits of Jackman should have no bearing on the refund of poll taxes.

FRANK A. FARRINGTON

Deputy Attorney-General

September 15, 1943

William D. Hayes, Auditor

Audit

In answer to your question about the right of the Governor and Council to accept a surety company bond where the statute provided for two sureties, I call your attention to Chapter 60 of the Revised Statutes, Section 160, which provides that any company with a paid-up capital of not less than \$250,000, duly incorporated and organized for the purpose of transacting business as surety on obligations of persons, that has complied with the requirements of the law which would permit such company to transact business in the State, may be accepted as surety upon the bond of any person or corporation required by the laws of the State to execute a bond, and if such surety company shall furnish satisfactory evidence of its ability to provide all the security required by law, no additional surety may be exacted.

The legislature has left the matter of approving certain bonds with the Governor and Council. The legislature must have intended that these officials would demand a bond with surety or sureties that would guarantee the best fulfilment of the obligation. In my opinion, a surety company qualified to do business in the State of Maine would furnish the best guaranty of such an obligation. I would not say that the Governor and Council would be right in refusing in all cases to accept a bond containing individual sureties; yet where there is the slightest