

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1943--1944

Williams was ceded by the State of Maine to the United States. I shall assume, however, and properly so, that that grant follows the pattern of others which are referred to in a reported decision of this State but involving another question. There would be grave doubt about the validity of the marriage. The authority granted to the chaplain to perform marriage ceremonies under the license issued to him is limited to marriages performed within the boundaries of the State. He thus cannot perform a marriage outside the State of Maine under that authority. Lands ceded by the State of Maine to the government for the erection of Forts, it has been held, are within the exclusive jurisdiction of the government of the United States. I have some doubt whether the act of solemnizing a marriage on a government reservation is within the State of Maine.

I would therefore advise that the marriage should be performed by the chaplain outside of the reservation.

Very truly yours,

ABRAHAM BREITBARD
Deputy Attorney-General

April 20, 1944

Harry V. Gilson, Commissioner Education

School Board Members who contract to convey pupils in the same town or union

I have your memo of April 18th, in regard to school board members who contract to convey pupils in the same town or union.

I have examined the opinion issued by Attorney-General Burkett dated April 26, 1939, and he, I believe, has apparently given a correct statement of the law applicable to the case. However, it is not the responsibility of the Commissioner of Education to police the situation. We have certain acts which we call *malum prohibitum*. Proper conduct in times of emergency sometimes makes it necessary to apply the law in such cases in varying degrees. A thing we could not approve in general practice might be a necessity in time of emergency, and the statutes which the legislature has provided for our guidance and assistance must oftentimes be used in different fashions. They are, after all, the tools provided for the use of administrative officers and these officers must exercise their best judgment in using the tools. If their judgment proves poor we try to find administrative officers who have better judgment.

So it is with school board members. The exigency in which they find themselves may make it necessary that in order to perform the functions of their office they at times do, or permit, certain things which ordinarily could not be considered proper.

FRANK I. COWAN
Attorney-General

April 22, 1944

Harry V. Gilson, Commissioner Education

Extent of authority of Commissioner of Education over private and parochial school

I have been giving thought to your memo of April 18th in regard to