

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1945-1946

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The applicant American Railway Express Company would be entitled to zone privilege number plates for trucks rated as to carrying capacity of 3 tons or less under these provisions, if New Hampshire grants similar privileges to residents of this State.

ABRAHAM BREITBARD
Deputy Attorney General

February 28, 1945

To William O. Bailey, Department of Education

Referring to your memo of February 14, 1945, relating to funds received from the Federal Works Agency pertaining to the allocation of Lanham Act funds to the Town of Kittery, I will say that my ruling of February 26th, addressed to Commissioner Gilson, was based on the fact that the Town of Kittery had received only \$13,262 in lieu of taxes under the Lanham Act. It was called to my attention this morning that payments in lieu of taxes by the FPH to the Town of Kittery, received in 1943, which is credited for the year 1944, as found on page 19 of the town report of Kittery, amounted to \$34,942.92. 38% of this amount was allocated to common schools, which amounted to \$13,261.73, which is the amount that you deducted under Item 14 of your minimum school program.

I note from the work-sheet on the Equalization Fund subsidy for December, 1944, that the total cost of the minimum school program was \$56,592. Under deductions you have proceeds of 13-mill tax, State valuation, \$34,056. Under Item 11, deduction, State school allocation, \$9,886, and subsidies for special courses, \$800. Under Item 14, Lanham Act funds in lieu of taxes, you have \$13,262, making a total deduction of \$59,004 that the Town of Kittery has received, \$1412 more than the total cost of the minimum program.

Therefore I am revoking my opinion of February 26th, based on total receipts of \$13,262, and ruling that the Town of Kittery is not entitled to receive any funds from the Department of Education under the Equalization Law.

RALPH W. FARRIS
Attorney General

March 6, 1945

To Earle R. Hayes, Secretary, Employees' Retirement System

I have your memo of March 6th relating to the University of Maine, in case L. D. 70 and L. D. 545, now pending before the legislature, become law.

Your questions were based upon the assumption that L. D. 70 will become law, thereby establishing the University of Maine as "an instrumentality and agency of the state," and upon the further assumption that L. D. 545 will be enacted into law, which bill provides that "all off-

cers and employees of the University of Maine" shall be considered as employees for the purposes of the State Employees' Retirement System. It is my opinion that, inasmuch as Section 118 of Chapter 37, R. S. 1944, provides, "The University of Maine Fund shall be disbursed by the treasurer of state upon proper order by the trustees of the University of Maine and upon requisition approved by the governor and council," and that Chapter 216, Article I, Section 1, P. L. 1931, provides that the provisions of the administration of the state act shall not be construed to apply to the University of Maine, and that this provision of law is still in effect, having been exempted from the repealing act at the special session of the legislature held in September, 1944, by Senate Paper 524, L. D. 934; and inasmuch as Section 13, subsection 6 provides that budget estimates shall be broken down in such a way as to permit the proper allocation of costs among the general funds of the State, the general highway fund, and such other funds as it may be found practicable by the State budget officer to charge with their proportionate share of the cost of pensions; it would seem that the State budget officer has no authority over the University of Maine special mill fund, as set up in Section 117, Chapter 37, R. S. 1944, and cannot legally transfer money from that fund to the Employees' Retirement Fund to cover the State's liability for the employees of the University of Maine in case they should become members of the system under the provisions of L. D. 545, unless Section 13, subsection 6, Chapter 60, R. S. 1944 and Section 118 of Chapter 37, R. S. 1944, were amended by the legislature, and the last paragraph of Section 1, Chapter 216, P. L. 1931, so far as it relates to the University of Maine, were repealed.

It is also my opinion that in case L. D. 545 becomes law and the employees of the University of Maine become members of the Retirement System, it would be proper to allocate the cost of the pensions among the general funds of the State, as it would not be practicable under the present provisions of the statutes above cited for the State budget officer to charge the University of Maine Fund with the carrying out of the provisions of L. D. 545.

RALPH W. FARRIS
Attorney General

March 7, 1945

To Brig.-Gen. George M. Carter, Adjutant General

I received your memo of March 2nd relating to the settlement of recent loss in connection with the fire at the Stevens Avenue Armory in Portland, and note that you are faced with the necessity of working out an adjustment of insurance with certain representatives of the insurance companies.

Under Sections 24 and 25 of Chapter 12, R. S. 1944, the Commission does (a) have full charge of all military property owned by the State of Maine; (b) have the authority to conclude with the proper authority of the insurance companies a settlement in connection with losses of State armories, as the military law has been amended so that the State Military