

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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closing, thus giving its employees an additional hour of daylight during a certain specified time of the year; and in those localities it has been customary for industry and business to follow the action of the municipal officers.

Therefore what we are doing now has nothing to do with daylight saving or its revival between April and September.

ABRAHAM BREITBARD
Deputy Attorney General

September 20, 1945

To Edward E. Chase, President, Board of Trustees, University of Maine

I have your letter of September 7th . . . asking my opinion on two legal points:

First. "Would it be legal for the Trustees so to invest endowment funds, provided, of course, that the bequest or gift did not contain a specific inhibition?"

It is my opinion that if there is no specific inhibition in the creation of said trust, the trustees can invest endowment funds under the provisions of Chapter 80, P. L. 1945: "A fiduciary shall exercise the judgment and care under the circumstances then prevailing, which men of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital, etc."

Second. "If the Trustees, with the consent of the Governor and Council as required by law, should borrow money by giving notes or bonds, to be paid for out of dormitory profits at an agreed rate of retirement, but in form of direct obligation of the University of Maine, would such bonds be exempt from federal income taxes on the ground that the University is an agency and instrumentality of the State of Maine?"

It is my opinion that such bonds would be exempt from federal income taxes on the grounds mentioned in your opinion.

RALPH W. FARRIS
Attorney General

September 20, 1945

To Lucius D. Barrows, Chief Engineer, SHC

I have your memo of September 7th enclosing a memorandum from Ralph H. Sawyer, traffic engineer, relating to parking on highways. You state that your department is frequently requested to take action to control parking and that there is question in your mind whether the department has any definite or specific authority to do that.

It is my opinion that Section 99 of Chapter 19 confers such authority upon the State Highway Commission and upon the appropriate highway officials. The last part of said section reads as follows:

“. . . the intent of this chapter being to confer upon the state highway commission, and upon the appropriate highway officials, broad regulative authority to encourage reasonable use of the ways and bridges and to correct abuse thereof; such delegated authority being necessary in the opinion of the legislature for the reasonable use and proper protection and continued maintenance of the ways and bridges of this state.”

It is my opinion that the language of this statute gives the Commission authority to restrict parking along the highways or on the approaches to bridges, where the parking of cars has become a nuisance and a hazard to the free movement of traffic.

RALPH W. FARRIS
Attorney General

October 8, 1945

To John C. Burnham, Administrative Assistant, SHC

Your memo of October 4th received, asking my opinion whether under the Personnel Board Rule 11, Part 2, a state employee, receiving injury by accident arising out of and in the course of his employment, would be entitled to benefits under the provisions of the Workmen's Compensation Act and the balance of his weekly wages as sick leave pay up to the number of days of sick leave due him.

My opinion is that the employee receiving the benefits under the provisions of the Workmen's Compensation Act is not entitled to the balance of his weekly wages as sick leave, as sick leave and accidents should be distinguished in the payment of benefits under the Workmen's Compensation Act.

RALPH W. FARRIS
Attorney General

October 17, 1945

To Miss Esther Lipton, Director of Special Education for Physically Handicapped Children

Re: Examinations of Physically Handicapped Children

I have your memo of October 17th propounding four questions:

1. Is the diagnosis of an M. D. considered legal in the State of Maine?

Answer. Yes.

2. Is the diagnosis of an Osteopath considered legal in the State of Maine?

Answer. The diagnosis of an osteopath would be legal for certain physical conditions which said osteopath has been trained to treat.