

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1947 - 1948

February 3, 1947

To David H. Stevens, State Tax Assessor

I have your memo of January 31st relating to the definitions of "officer" and "real estate" under the provisions of paragraph 3 of Section 6 of Chapter 81 relating to exemptions of real estate of "all literary or scientific institutions occupied by them for their own purposes or by any officer thereof as a residence. . ."

In accordance with legal principles and the interpretation of the statute as enunciated by our courts, the provisions of R. S. Chapter 81, Section 6, paragraph 3, are subject to the limitation that the exemption applies only to property occupied by the corporation for its own purposes. It is my interpretation of the statute that real estate means any property owned by the school or institution which comes within the provisions of this statute and is used for school purposes, such as the residence of an instructor or teacher, who would be deemed an officer charged with a duty by the institution; provided that there is no revenue derived from the use of the real estate or the residential property.

In *Camp Emoh Associates vs. Lyman*, 132 Maine 67, the Court points out:

"Immunity from assessment depends not upon simple ownership and possession of property, nor necessarily upon the extent or length of the actual occupancy thereof, although this is entitled to consideration, but upon exclusive occupation of such a nature as, within the meaning of the statute, contributes immediately to the promotion of benevolence and charity, and to the advancement thereof. . ."

In the case under discussion, residential property occupied by a faculty member with one or more students living in the property would be considered a dormitory or residence of an officer and would be exempt from taxation, provided it was used exclusively for school purposes. It seems to me that the criterion for the Assessor is whether the work of the institution is of a business character or whether it is devoted to literary and scientific purposes for its own use. If they should rent or lease such real estate during the summer months and receive rental therefrom, it is my opinion that this would take them out of the provisions of the statute, as the property would not be occupied exclusively for their own purposes.

RALPH W. FARRIS
Attorney General

February 17, 1947

To Hon. Harold I. Goss, Secretary of State, and
Col. Laurence C. Upton, Chief, Maine State Police

I have your joint memo of February 7th, signed by both of you, requesting an opinion as to the legality of an appropriation set up in the State Police budget as a sum to be expended in the promotion of highway safety under the jurisdiction of the Highway Safety Bureau of the State Police Department, acting in coöperation with a Highway Safety Coördinating Committee to be appointed by the Governor.