

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1947 - 1948

You will note by the language of Section 105 of Chapter 20, R. S., that it provides for the construction of state, state aid, and third class highways, for the maintenance of state and state aid highways, and interstate, intra-state and international bridges.

It seems to me that the construction provided for under Section 48, R. S. 84, as amended, refers to ways already laid out, and the expense thereof, allocated under this section, should not be paid from the appropriation for the maintenance of bridges, but from the general highway fund.

RALPH W. FARRIS
Attorney General

May 5, 1947

To Raymond C. Mudge, Commissioner of Finance and Budget

I received your memo of May 2nd, enclosing in quadruplicate a 22-page list of accounts receivable recommended to be charged off . . . together with a letter from Fred Berry, State Auditor, in which he makes a suggestion with respect to these charge-offs. I had a talk with him and told him how these accounts should be handled. I call your attention to the statute providing for charging off accounts, to be found in Section 30 of Chapter 14, R. S. Upon examination of this statute you will find that the Controller should charge off the books of accounts of the State or of any department such accounts receivable, including all taxes for the assessment or collection of which the State is responsible, when recommended by the head of the department, etc., upon certification by the Commissioner of Finance and the State Auditor, subject to the approval of the Governor. Under the statute, the Attorney General has no part in these proceedings, unless upon post-audit by the State Auditor these charge-off accounts are found collectible. Then they should be turned over to the Attorney General's Department for attention.

The State Auditor is not responsible for the collection of money belonging to the State or for the handling or custody of any State funds.

I note Mr. Berry's suggestion to you that the Treasurer's office be contacted to determine what results, if any, they may have had with the collection of these accounts. In this regard I call your attention to Section 8 of Chapter 15, R. S., which provides that the Treasurer shall promptly collect all taxes and accounts due the State, certified to him, as provided therein. In cases of neglect or refusal to pay, he shall institute through the Attorney General such court actions as may be necessary to enforce payment. This section was amended by Section 23 of Chapter 41, P. L. 1945, and does not include taxes collected by the State Tax Assessor; nor does it apply to the Maine Unemployment Compensation Commission.

My suggestion in handling these charge-off accounts is that the regular statutory procedure be followed, except in those cases where the accounts have been turned over to the Department of the Attorney General, and the department has not been able to collect, or there are no assets available in the hands of debtors which would justify spending the State's money in bringing action on these delinquent claims.

In future, before these accounts are submitted to my office for approval for charging off, they should be certified to by the Commissioner of Finance and the State Auditor, and recommended by the head of the department or institution. . .

RALPH W. FARRIS
Attorney General

May 9, 1947

To N. S. Kupelian, M. D., Superintendent, Pownal State School

I have your letter of April 29th, relating to one of your inmates who has been out on trial visit for some time . . . has been self-supporting and has not got into any trouble in the community, and you are considering his dismissal upon eugenic sterilization. You also state that the law requires the signature of the nearest relative and your records show that his mother is feeble-minded and her whereabouts are known. You are therefore wondering if under these conditions it would be legal to have his brother sign the consent in place of the mother.

It is true that the law provides that in case the patient is mentally incapable of giving his consent, the consent of the nearest relative or guardian must be secured. However, if the nearest relative is incompetent and feeble-minded and incapable of understanding the significance of the consent, I will rule in this case that the consent of the nearest relative who is competent must be secured, and it will be sufficient for the purposes of this case to have the brother sign the sterilization papers with a note on the consent that the brother who signs the consent is the next nearest relative mentally capable of giving consent.

RALPH W. FARRIS
Attorney General

May 21, 1947

To Marion Martin, Commissioner of Labor
Re: Hours of Labor for Women

In your letter of May 7th you ask to be advised concerning the hours of labor a female may be employed under § 22 of Chapter 25, R. S. 1944. Your question is: "Would it not be possible for an employer to employ a female 10 hours, 5 days a week in order to reduce the work day of the 6th day so that day is entirely eliminated?"

The section of the statute, so far as pertinent, is as follows:

"No female shall be employed in any workshop, factory, manufacturing or mechanical establishment more than 9 hours in any one day; except when a different apportionment of the hours of labor is made for the sole purpose of making a shorter day's work for 1 day of the week; and in no case shall the hours of labor exceed 10 hours in any one day or 54 hours in any one week; . . ."

I think that the adoption by the employer of a 50-hour week spread over 5 days of 10 hours each would be within the letter and spirit of this statute, and I so advise you.