

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1947 - 1948

"The help are paid by the Auburn Public Library and not by checks of the City of Auburn. They are employees of Auburn Public Library."

From the statement of facts contained in your memo I believe that this library was not established by the town. While it has an annual appropriation from the town in accordance with Section 28 of the charitable and educational chapter of the Revised Statutes as a private corporation, it is not authorized by law to perform governmental functions or to create subdivisions of its territory, endowed with power to perform and fulfill some part of its own functions within a limited territory. *Augusta vs. Augusta Water District*, 101 Maine at page 150, and *Woodworth vs. Livermore Falls Water District*, 116 Maine 86; also *D. & F. Water District vs. Sangerville Water Supply Company*, 130 Maine 217.

In view of the facts contained in your memo, and taking into consideration the definition laid down in the *Augusta Water District* case, 101 Maine 148, which reads as follows: "A body politic and corporate, created for the sole purpose of performing one or more municipal functions . . . is a quasi-municipal corporation." . . . it is my opinion that the Auburn Public Library is not a quasi-municipal corporation under the provisions of Section 16, Chapter 384, P. L. 1947, so as to bring it within the provisions of the State Employees' Retirement System.

However, I should advise Attorney Wing, when you answer his letter, that it might be well for him to look into the status of the employees of the Auburn Public Library from a standpoint that they may be employees of the City of Auburn and come within the provisions of Section 16 of Chapter 384, P. L. 1947, by virtue of their employment as such, even though they may not be paid by checks of the City of Auburn. There may be some provision in the charter which would make them city employees.

RALPH W. FARRIS
Attorney General

January 22, 1948

To Harold I. Goss, Secretary of State

I have your memo of January 22d, calling my attention to the provisions of Section 17 of Chapter 19, R. S., with particular reference to the 8th paragraph of said section, which reads in part as follows:

"Notwithstanding the preceding provisions of this section, the secretary of state may provide and issue a suitable device in lieu of new registration plates for any calendar year."

You state in your memo that under the authority of this provision of law you have issued a single number plate for use during 1948 and that the legality of this action has been questioned. You request an opinion as to whether you have authority to issue the single number plate for 1948 or any subsequent year, so long as the above provision of the statute remains in force.

In answer to your question I wish to advise that it is my opinion that, notwithstanding the first part of said Section 17 which provides that the Secretary of State shall furnish double number plates, etc., the eighth para-

graph of said section, which you quote, grants the Secretary of State broad powers in providing a suitable device in lieu of new registration plates for any calendar year. You will note that "number plates" means more than one plate; but if you deem one plate a suitable device in lieu of two number plates, you would be acting well within the exception to the provisions of this statute requiring the issuance of two plates, in issuing one plate as you have done for 1948.

One definition of "device" in Webster's New International Dictionary reads as follows: "an emblematic design, generally of one or more figures with a motto. . ." Another definition of "device," which is the word used in this statute, is: "a mechanical or practical contrivance to serve a special purpose."

While one number plate is not in any sense of the word a mechanical contrivance, it is an emblematic design consisting of figures with a motto, "Vacationland," on same, which serves a special purpose, which in this case is to keep within the budget set up by the legislature for this purpose.

This part of Section 17 of Chapter 19 of the Revised Statutes was enacted at a special session of the legislature in January, 1942, and will be found in Chapter 306 of the Public Laws of 1941.

RALPH W. FARRIS
Attorney General

January 23, 1948

To John C. Burnham, Administrative Assistant, Highway
Re: Section 80, Chapter 12, R. S. 1944

I have your memo of January 16th in which you say you would like me to let you know whether the last sentence of the above mentioned section means that the department should pay the full salary regardless of what the member of the military reserve received from the government, or pay the difference between the military pay and the State pay in case the military pay is less than the State salary.

My answer to this inquiry is that the employee should get the full amount of the salary, regardless of what the government pays him while he is on military leave, either by order of the Governor or under the provisions of the National Defense Acts.

Another question on which you would like an opinion is on the case of a highway employee who while in Naval Reserve training, becomes ill and is absent several months from State service. You ask, "Is this employee eligible to full pay up to the extent of the sick leave time which has been accumulated to this employee's credit?"

My answer to that question is that he should be taken off the State payroll as soon as the temporary training period is over, which is usually two weeks to thirty days during the summer months. A case of this kind should be handled under the Personnel Law and the Rules and Regulations promulgated thereunder. He is entitled to pay for his sick leave during the time after his temporary military training duties cease.

RALPH W. FARRIS
Attorney General