

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

**for the calendar years**

**1947 - 1948**

It seems to me, however, that before doing so you must satisfy yourself that the condition of the patient is such that he may be safely released; and if released to relatives or friends, that they are proper persons to receive him. The matter is one in which you must exercise your own judgment, having in mind the mental condition of the inmate.

ABRAHAM BREITBARD  
Deputy Attorney General

March 22, 1948

To Charles P. Bradford, Director, State Park Commission  
Re: Rules and Regulations for State Parks and Memorials

In accordance with your memo of March 9th, I certify that in my opinion the rules and regulations above set forth are in conformity with the law.

Section 11 will be modified in the following manner:

*“Violations*

Any person found guilty of violating the above rules and regulations shall be punished as provided in Chapter 32, Section 26 of the Revised Statutes of Maine, 1944; except where the offense is of a nature for which a greater punishment is provided under other provisions, then the punishment shall be in accordance with such provisions.”

The reason for the above is that there are offenses described, for example, driving under the influence of intoxicating liquor or drugs, and carrying concealed weapons, for which a greater punishment is provided under other provisions of law; and I believe the same is true of reckless driving.

ABRAHAM BREITBARD  
Deputy Attorney General

March 22, 1948

To Earle R. Hayes, Secretary, Employees' Retirement System  
Re: Former Employees of E. R. A.

I received your memo of March 16th, stating that the Board of Trustees are in receipt of requests from present State employees who are members of the Retirement System relative to credits toward retirement for certain periods of time which they formerly worked for the E. R. A., and that the Board requests my opinion as to the status of this former agency as it relates to State employees.

In the case of *State vs. Martin*, 134 Maine, page 455, the Supreme Court stated as follows:

“There was co-operation concerning the administration of relief in that the State Controller, the State Treasurer and their assistants lent administrative help, but administration was always Federal; funds were so earmarked; all reports of expenditures were made to the United States, and unexpended balances accounted for, accordingly. Emergency relief administration in Maine was by the United States and not by the State.”

Therefore my opinion in this matter follows the language of the Supreme Court, and former employees of the E. R. A. would not be considered as State employees.

RALPH W. FARRIS  
Attorney General

March 30, 1948

To H. H. Harris, Controller  
Re: Council Order #76, March 3, 1948

With reference to Council Order #76 of March 3, 1948, by which \$10,000 is made available to the Department of Education for repairs and improvements in the dormitory and classroom facilities at Madawaska Training School, Fort Kent, and by which the Commissioner of Education is authorized to employ one John Cyr of Fort Kent to perform the work on a "day-labor basis":

At the time when this Council Order was passed, the Governor and Council had before them facts which showed that it was impracticable to let out this work on competitive bidding. In the first place there were no contractors in that area and therefore you could not have competition in bidding. Also there was the fact that the nature of the work was such that it would be difficult to prepare plans and specifications to be submitted for competitive bidding, as the extent and the time to be consumed in doing this work would develop as the repairs were undertaken.

The Governor and Council also considered the representation that the cost of the work would be greatly increased by submitting it to competitive bidding, since the contractors would be obliged to travel some distance from where they are located, and likewise their employees would have to travel from their homes and take up quarters at Fort Kent for room and board during the progress of the work.

In view of these circumstances, the Governor and Council determined, as their order indicates, that these repairs and improvements should be done on a day-labor basis.

I think that this order falls within the spirit of Chapter 14, Sections 43 et sequitur, and is not in conflict with the law.

ABRAHAM BREITBARD  
Deputy Attorney General

March 30, 1948

To Ernest H. Johnson, State Assessor  
Re: Revised Statutes, Chapter 142, Section 15

In your memo of March 18th you ask whether, under the authority granted by Chapter 142, Section 15, permitting the State Tax Assessor to extend the time of payment of the inheritance tax, you can grant an extension with conditions as to the payment of interest during the time of the extension, to compensate the State for non-use of the money.