

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

**for the calendar years**

**1947 - 1948**

The rule in that case is governed by Section 4 of Chapter 532 of the Private and Special Laws of 1865, creating the University, which provides:

"No person shall be a trustee who is not an inhabitant of this State, nor anyone who has reached the age of 70 years."

In such a case the department ruled that the office becomes vacant when the trustee reaches seventy years of age, by reason of the provisions of the section of the charter quoted.

ABRAHAM BREITBARD  
Deputy Attorney General

April 20, 1948

To Earle R. Hayes, Secretary, Employees' Retirement System

In your memo of April 6th, which reached this office on the 8th, you requested an opinion as to whether or not the provisions of Section 9 of Chapter 384, P. L. 1947, namely, "otherwise to his estate," may be interpreted to mean that you can pay such funds of a deceased member to the duly appointed administrator or personal representative, or whether checks should be drawn to "the estate."

Checks should be drawn to the administrator or executor, whichever the case may be. If there is no administrator or executor qualified and there are heirs, the check could be made payable to the heirs, if they would all sign a release and file a bond to hold the State harmless from any liability for payment of such funds to the legal heirs of the deceased.

Checks made payable to the estate of any person cannot be cashed unless signed by a duly appointed representative of the deceased.

RALPH W. FARRIS  
Attorney General

April 26, 1948

To H. A. Ladd, Commissioner of Education

I have your memo of April 12th about which I conferred with Mr. Roderick on April 23rd and which concerns the arrangements for raising funds to construct a new school gymnasium in Island Falls. You state that a woman has promised to raise \$10,000 from individual givers if the town will match the sum. As you understand it, the town has not raised its share, but there seems to be a general agreement among the voters that they should fulfill their part, if this lady can produce \$10,000 as promised.

You state further that since the town meeting she has purchased a new Plymouth car and presently plans to sell tickets and give the car to a lucky winner. You advised them to go slowly on this matter, as you feel that the proposal is outside the pale of law, and you agreed to confer with my office in regard to this matter. In this connection you asked the following questions:

"(1) Is action of this sort permissible?"

*Answer.* No, it is not permissible.

“(2) If illegal, what penalties are likely?”

*Answer.* A fine may be imposed of not less than \$10 nor more than \$1000, and an offender may be further punished by imprisonment for 30 days on the first offense, 60 days on the second, and 90 days on the third. Also the automobile may be seized, as this is a game of chance, which is prohibited by statute. Anything that involves a lucky winner is a violation under Section 18 of Chapter 126.

“(3) Can the procedure be legalized by selling tickets to a dance or other entertainment and giving the car to the lucky ticket holder?”

I do not feel that it is fair to ask the Attorney General to provide opinions for evading the law.

I will say that the admission tickets are subject to a tax by the Federal Government, and if door prizes are given, the drawing would be investigated by the Internal Revenue Department.

RALPH W. FARRIS  
Attorney General

April 26, 1948

To E. E. Roderick, Deputy Commissioner of Education  
Re: Liability of parents evading the compulsory school attendance law

I have your memo of April 6th, which we discussed in my office on April 23rd, when I advised you that there seems to be no statutory provision covering the matter contained in your memorandum.

Where the parents of children of school age take their children to the Aroostook potato fields in harvesting season, they take them out of the jurisdiction of their legal residence temporarily.

I do not see where the compulsory attendance statute could authorize the Department of Education to take any action. There is no statute which would permit prosecution of parents for removing their children to another town to earn money during the harvesting season in Aroostook.

RALPH W. FARRIS  
Attorney General

April 30, 1948

To A. M. G. Soule, Chief, Division of Inspection,  
Department of Agriculture  
Re: Produce Dealers Supply Co.

I have your memo of April 30th relating to the provisions of Sections 225-231 inclusive of Chapter 27, relating to the branding of potatoes; also two exhibits you left in my office—one, a ten-lb. bag labeled

10 lbs. net

U. S. Grade No. 1

MONARCH  
BRAND  
MAINE  
POTATOES  
Produce Dealers Supply Co.  
Presque Isle, Maine