

MAINE STATE LEGISLATURE

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STATE OF MAINE

R E P O R T

OF THE

ATTORNEY GENERAL

for the calendar years

1949 - 1950

I therefore suggest that the matter be submitted to the inhabitants at the next town meeting by proper articles in the warrant or at a special town meeting, to authorize the conveyance of land to the State, which I understand they are willing to do, if the authority existed.

I would also suggest that the article contain a description sufficient to identify the land to be conveyed.

ABRAHAM BREITBARD
Deputy Attorney General

February 23, 1949

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

I have your memo of February 18th relating to the damage to the New England Telephone & Telegraph Company's cable on the grounds of the Pownal State School, which cable was damaged when one of the boys was digging to take care of leakage in the steam pipe that extends from one of the dormitories to the temporary schoolhouse. This was repaired by the company, which has presented a bill of \$38.31.

The State is not responsible for this bill. The Telephone Company should mark where its cable is laid if it expects to prevent it from being damaged by excavations on State property. In other words, the property belongs to the State of Maine, and the company laid its cable under same at its own peril.

It is my opinion that the legislature does not want to be bothered with any trivial matter of this nature.

RALPH W. FARRIS
Attorney General

February 24, 1949

To H. A. Ladd, Secretary, Maine Maritime Academy
Re: Legal Services

Your memo of February 22nd received, stating that the Trustees of the Academy voted on February 18th to ask the Attorney General of Maine the following questions:

"1. The legality of expending state funds for the legal counsel which would be necessary to press the interests of the Maine Maritime Academy."

Answer. Under the provisions of Section 1 of Chapter 17, R. S. 1944, all legal services required by officers, boards and commissions in matters relating to their official duties shall be rendered by the Attorney General or under his direction.

"Said officers, boards, and commissions shall not act at the expense of the state as counsel in any suit or proceedings in which the state is interested."

Therefore under the direction of the Attorney General you may expend the funds of the Maine Maritime Academy for protecting the interests of the State.

"2. The possibility of the Attorney General's office representing the Board in so far as what state legal services might be necessary."

Answer. In reply I will again refer you to Section 1 of Chapter 17, which provides:

"The attorney-general shall appear for the state, the secretary of state, the treasurer of state, the bank commissioner, the insurance commissioner, the head of any other state department, and the state boards and commissions, in all suits and other civil proceedings in which the state is a party or interested, or in which the official acts and doings of said officers are called in question; . . . All such suits and proceedings shall be prosecuted or defended by him or under his direction."

"3. The Attorney General's opinion as to the eligibility of the Maine Maritime Academy to share in the distribution" under the terms of the bequest in the will of the late John McKee.

Answer. It is the opinion of the Attorney General that the Academy is eligible to share in the distribution under the terms of the will and may take such steps as are necessary to protect the interests of the State in any property which may come to the State through this State agency.

RALPH W. FARRIS
Attorney General

February 25, 1949

To Gen. George M. Carter, the Adjutant General
Re: Use of Armories for the Purpose of Procuring Recruits and General
Morale Building for the National Guard

I acknowledge receipt of your memo of January 21st, which reached this office on January 24th and which presents a peculiar situation upon which your office must pass, as it does not seem to me that this matter is one for the Attorney General's office to decide, but rather one for the Adjutant General's office, as it appears to be an administrative matter relating to the activities of the National Guard in carrying on social functions for its own benefit as against operators of private dance pavilions who complain that the social activities of the National Guard are cutting into the attendance at the private dance halls from which the State of Maine derives no financial, military or social benefits.

In my opinion the courts would not restrain the activities of the National Guard in its own armory in its own locality, regardless of how the operators of private dance pavilions may feel about the matter. However, if the Guard officers desired to help any proprietor of a local dance pavilion in his business, they could change the night of their social dances; but in my opinion there is no legal necessity for so doing unless they deem it advisable as a matter of cooperation with the owners of dance halls. . . .

RALPH W. FARRIS
Attorney General