

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

and said joint committee shall have all the powers vested in said committee by the provisions of said section and the town shall have all the benefits provided in said section."

In 1949 the town of Cumberland in town meeting voted to increase the number of selectmen from three to five.

On the foregoing statement of law and fact you ask the following questions:

"Question 1. Does the original charter, providing for three of the seven members of the board of trustees to be selectmen, prevail; or does the action taken by the town in 1949, increasing the number of selectmen from three to five, permit the number of selectmen on the board of trustees to be five?"

In answering Question 1 I will state that the original charter provided for three selectmen to be members of the board of trustees of Greeley Institute and four members to be elected by the inhabitants of the town of Cumberland in town meeting. In view of the fact that in 1945 the legislature authorized the formation of a joint committee of the board of trustees with the superintending school committee and provided that three of their number, who shall not be selectmen, shall act as a joint committee with the town superintending school committee, it is my opinion that the provisions of the charter prevail, notwithstanding the fact that the town has increased the number of selectmen to five, and that it is incumbent upon the selectmen to select three from their number to serve as trustees of Greeley Institute. Those members of the board of trustees elected by the inhabitants to serve on the joint committee should not be members of the superintending school committee; nor can they be selectmen.

"Question 2. If the number of selectmen permitted to be members of the board of trustees is five, how is the membership of the joint committee to be selected?"

My answer to Question 1 practically answers Question 2, as the provisions of the charter, as amended by the 1945 Legislature, should prevail over the action of the inhabitants of the town; and it was clearly the intent of the legislature to have only three members of the board of seven trustees be selectmen.

RALPH W. FARRIS
Attorney General

January 31, 1950

To Ermo H. Scott, Deputy Commissioner of Education
Re: Legality of establishing procedure for approval of teacher-education curricula

I have your memo of January 26th relating to the above named subject. You state that from time to time the State Department of Education is requested to grant approval to collegiate institutions within the State of certain curricula designed for the professional training of teachers; that up to this time such approvals, when granted, have been very informal in character and not based on definite standards; and that they have placed too significant

a responsibility upon the personal judgment of one or two officials. You further state that almost every neighboring State has developed a procedure, whereby, upon application by an institution, examination may determine whether the institution can meet certain predetermined standards before receiving official recognition and approval for the program in question. You further state that in the State Board of Education an agency has been created which might well assume a similar responsibility, but that the law does not provide definitely for the approval of such programs, though it may by inference in Section 156, Chapter 37, R. S., as amended.

On this basis you state that the Board of Education has requested that a written opinion be secured from this office concerning the legality of action by the Board to define standards and procedures whereby the applications of post-secondary institutions for approval of proposed curricula for teacher-education may be properly evaluated and approved, or disapproved until such time as certain standards are met.

In reply I will state that in my opinion the State Board of Education through the Commissioner of Education should set up a regulation to take care of this situation and that the Commissioner should be authorized to issue the certificates, with the approval of the State Board of Education, after the proposed curricula have been evaluated by the Board and the Commissioner and his staff.

RALPH W. FARRIS
Attorney General

January 31, 1950

To Harland A. Ladd, Commissioner of Education
Re: Accident Liability, Rented Property, Teachers' Colleges

I have your memo of January 26th in which you state that the administrators of the State's five teachers' colleges and normal schools frequently have rented auditorium and gymnasium facilities in serving the interests of their communities, and that the State Board of Education is concerned about liability, administrative, institutional or State, in case of accident. The Board has therefore requested you to ask me for a written opinion on the following problem:

"When a facility at a state teachers' college or normal school has been rented, with or without fee, to a nonprofit community organization for educational, recreational or cultural purposes, to what extent is the respective administrator, institution, or the state liable in case of a connected accident on the premises to any patron or participant, not officially associated with the college as a student or employee? To what extent can the party renting the facility be made responsible for the assumption of this liability, if any?"

In answering the question of the State Board of Education, I will state that as a general proposition normal schools and colleges, being merely agencies of the State, are not, in the absence of statute imposing a liability, liable for torts committed by their administrative officers or employees; and the State under its powers of sovereignty is immune from suit. This is on the ground that the relation of master and servant does not exist, and the law provides no funds to meet such claims. However, if someone should be in-