

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

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-

jured while the auditorium or gymnasium of a normal school was rented and there was negligence on the part of the administration of the institution, it is possible that the one injured might come to the legislature with a resolve asking reimbursement for damages. I have never heard of such a case during my several years' experience in the legislature and in the office of the Attorney General.

To clarify further the problem involved, you enclosed certain proposed recommendations which are the basis of the present discussion by the Board of Education.

I feel that these recommendations are very sound and should be carried into effect.

RALPH W. FARRIS
Attorney General

January 31, 1950

To H. H. Harris, State Controller
Re: State Historian

I have your memo of January 23rd referring to the provisions of Section 6 of Chapter 39, R. S. 1944, relating to expenses of the State Historian. You call my attention to the fact that this section provides that the State Historian is provided with \$500 per year by appropriation, and you ask me to note that the law provides that any unexpended balance shall be carried forward and used for the same purpose for the succeeding year.

You further state that it seems to you that inasmuch as the total expenditure is limited to only \$500 and that the carried balance may and has accumulated to nearly \$2000 over a period of several years, there is a direct contradiction within this section.

Upon the basis of the foregoing you request me to inform you how you can pay the bills of the State Historian and still operate under Section 6 of Chapter 39, R. S.

Some days ago I had a talk with Mr. Griffith and Mr. Mudge, the Finance Commissioner, in regard to the contradictory provisions contained in Section 6 and I stated to them at that time that, in view of the fact that the State Historian's budget was a carrying account and the law authorized the expenditure of \$500 a year and any balance left over at the end of the year shall constitute a continuous carrying account and shall be carried forward and credited to the appropriation for the same purpose for the succeeding year, it was the intent of the legislature that if the \$500 was not used in one fiscal year, it should be carried over and used in another year, so that there would be money available to carry on the work of the State Historian.

In view of the fact that there is an accumulated balance for this work of gathering data relating to the history of the State, it should be available for the payment of expenses incurred in securing this material. If it were otherwise, it would defeat the intent of the legislature.

RALPH W. FARRIS
Attorney General