

# 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**

family he assumes new obligations and duties. When these new obligations and duties conflict with former ties, they must, in the interests of society and the family relation, be paramount. In other words, legal rights between husband and wife are superior to those between parent and child. Therefore it is my opinion that the marriage of Holden Turner emancipated him from his parents and that if he has resided in Mount Vernon since his marriage when he was 19 years of age, his legal settlement would be Mount Vernon, as that would mean that he had resided there for more than six years and had raised a family. This is a question of fact. Our court held in *Lowell v. Newport*, 66 Me. 78, that emancipation may be by marriage, death, misfortune or agreement.

RALPH W. FARRIS  
Attorney General

February 2, 1950

To Raymond C. Mudge, Commissioner of Finance  
Re: Board of Elevator Rules and Regulations

I have your memo of January 26th asking if the last paragraph of Section 99-K of Chapter 374, P. L. 1949, relating to the inspection of elevators, allows the Commissioner of Labor to expend in excess of the revenue dedicated to this purpose, or must this activity operate within the limits of the amounts collected as specified in this chapter?

In reply I will state that it is my opinion that it was the intent of the legislature that the expenses incurred under the provisions of this section should be paid from the revenue derived from fees, as the legislature appropriated all fees for this purpose.

RALPH W. FARRIS  
Attorney General

February 3, 1950

To Harland A. Ladd, Commissioner of Education  
Re: Liability in case of school accident

I have your memo of February 2nd relating to liability in case of school accident.

I gave a memo to H. V. Gilson, then Commissioner, on October 16, 1946, on the liability of teachers and school board members in case of death or injury of pupils. If you have not a copy of that memo in your file, I will furnish one from this office.

I call your attention to the case of *Brooks vs. Jacobs*, 139 Maine 371, decided April 2, 1943, in which the Court held that the relationship of teachers to their pupils is in the nature of *in loco parentis*, as the teacher is the substitute of the parent. Therefore if a pupil is injured in school and the teacher is negligent in securing emergency treatment, causing further injury or death to the pupil, that teacher might be held liable, depending on the circumstances of the case.

In the case of an emergency where the pupil is injured and the teacher calls a hospital and has the pupil taken there, the parents of the child are