

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 wish to quote from Section 223 of Chapter 79 of the Revised Statutes of 1944, which provides: "A constable may serve, execute, and return upon any person in his town or in an adjoining plantation any writ of forcible entry and detainer, or any precept in a personal action when the damage claimed does not exceed \$100, including those in which a town, plantation, parish, religious society, or school district of which he is a member is a party or interested; but before he serves any process, he shall give bond to the inhabitants of his town in the sum of \$500, with 2 sureties approved by the municipal officers thereof, who shall indorse their approval on said bond in their own hands, for the faithful performance of the duties of his office as to all processes by him served or executed; . . ."

Therefore it is my opinion that the authority of constables in serving papers is limited by this section.

Section 23 of Chapter 88 provides when a constable may kill a dog. However, under this section which I have just cited a deputy sheriff would have authority in a plantation adjoining the town where the warrant was issued or the municipal court in the county having jurisdiction. This will be found in Section 11 of Chapter 88, which provides also that the penalty can be recovered by complaint before any trial justice or municipal court in the county where such owner or keeper resides. . .

RALPH W. FARRIS
Attorney General

March 2, 1950

To Philip A. Annas, Associate Deputy Commissioner of Education
Re: Reimbursement for Tuition

I have your memo of March 2d in regard to a pupil who lives in the town of Gouldsboro with her grandmother who raised her from a baby. You state that she attended the Gouldsboro schools without paying tuition until she completed the eighth grade, and as Gouldsboro does not have a high school, then went to Southwest Harbor to attend high school. While at Southwest Harbor she stayed with an aunt during the winter and returned to her grandmother's for the summer. This pupil claims that her grandmother is her sole support and that she had lived with her from a child although her grandmother has never been legally appointed her guardian. The Town of Gouldsboro now refuses to pay the Town of Southwest Harbor for her tuition on the ground that they are not responsible for her, because her grandmother is not her guardian. Upon this statement of facts you ask the following question:

"Should the State pay this tuition and charge the payment against the school funds due the Town of Gouldsboro?"

Answer. Yes, for the reason that this pupil resides in the town of Gouldsboro and has lived with her grandmother in that town from a child. Her grandmother is *in loco parentis*, that is, in place of her parent. Her father, I understand, has deserted his family, her mother is dead and this child has

been cared for by her grandmother during these school years in the town of Gouldsboro; and there is no legal reason why the Town of Gouldsboro should now try to avoid payment on account of the technicality which it has raised.

RALPH W. FARRIS
Attorney General

March 2, 1950

To Homer E. Robinson, Bank Commissioner
Re: Qualification of Directors, Development Credit Corporation

I received your memo of February 28th, stating that in the interests of the banks of this State which have been asked to become members of the Development Credit Corporation under the provisions of Chapter 104, P&SL 1949, you have been asked to secure a legal opinion from me on the interpretation of Section 5 of this Act.

As you state in your memo, this section provides, in part that one-third of the Directors of the corporation shall be elected by vote of the stockholders and two-thirds by members of the corporation.

Section 1 of the Act creating the corporation provides that it shall have the power to enact suitable by-laws and regulations not inconsistent with the general laws of the State, etc., and shall be possessed of all the powers, privileges and immunities conferred on corporations by the general laws relating to corporations.

You further point out that Section 31 of Chapter 49, R. S., requires that directors must be and remain stockholders, except that a member of another corporation, which owns stock and has a right to vote thereon, may be a director. That is the general law, and it is my opinion that in order to comply with Section 1 of the Special Act creating the corporation, the directors should conform to the general law and qualify themselves as such directors by subscribing for a share of stock in the corporation, thereby avoiding future legal questions in this regard.

RALPH W. FARRIS
Attorney General

March 8, 1950

To Col. Francis J. McCabe, Chief, Maine State Police
Re: School Bus

I received your memo of March 3d, stating that you are receiving a number of inquiries regarding cars operating on pleasure plates, carrying school children and being paid by the pupils or their parents instead of by the municipality.

I talked with the Secretary of State and his Deputy concerning this matter a few days ago, and I believe I advised Sgt. de Winter on the telephone that if private passenger cars carry school children for hire they should have a tag on their license plates and pay a license fee for that purpose, unless the vehicle is a regular school bus.

RALPH W. FARRIS
Attorney General