

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

makes no statements that will constitute a waiver of the privilege that he claims.

ROGER A. PUTNAM
Assistant Attorney General

January 24, 1952

To Harland A. Ladd, Commissioner of Education
Re: School Bands

This opinion will affirm an oral opinion given by John S. S. Fessenden, Deputy Attorney General, to Fred L. Kenney, Director of Finance in your department, some weeks ago with respect to whether or not municipalities may appropriate money to subsidize school bands.

It was the opinion of the Deputy Attorney General that cities and towns may not authorize expenditures for the purpose of supporting school bands. This opinion was based on the fact that if the door were opened to permit towns to support school bands, then a precedent would be set for permitting municipal taxation for the purposes of supporting an endless number of activities which now are termed extra-curricular activities and not a definite part of basic education.

Chapter 80 of the Revised Statutes of 1944 spells out those powers granted to municipalities by the legislature, and the only section in that chapter which pertains to bands is Section 93, which states:

"Cities and towns may raise money for the maintenance or employment of a band of music for municipal purposes and public celebrations. The provisions of this section shall not be in force in any city or town unless approved by a majority vote of the qualified voters of such city or town at an annual election."

We interpret this section that a town may authorize money to subsidize bands which are commonly used for municipal functions, and we do not believe that it authorizes a town to appropriate money to subsidize a school band.

As we stated at the beginning of this memo, the above is the content of the oral opinion expressed by Mr. Fessenden, which is now affirmed in all respects by this office.

JAMES G. FROST
Assistant Attorney General

January 28, 1952

To Ermo H. Scott, Deputy Commissioner of Education
Re: Equal Pay for Women Teachers

We have your memo of January 18, 1952, in which you ask certain questions relative to Chapter 308 of the Public Laws of 1951.

Chapter 308 reads as follows:

"In assigning salaries to teachers of public schools in the state, no dis-

crimination shall be made between male and female teachers, with the same training and experience, employed in the same grade or performing the same kinds of duties. . . .”

We have carefully studied this chapter and feel that, briefly, the intention of the Act is to say that a woman and a man teaching the same grade, with the same training and experience, other factors being constant, shall receive the same salary.

We feel that the questions you have asked relative to grade, academic load, etc., are administrative problems and that they can be answered more easily by you, giving common, every-day meanings to the words used in the law, and that any attempt by this office to clarify these terms would result only in producing new problems.

JAMES G. FROST
Assistant Attorney General

January 28, 1952

To Honorable Frederick G. Payne, Governor of Maine
Re: Inspection of Children's Homes

With reference to the memo of Joseph A. P. Flynn, Director, State Fire Prevention, dated January 10, 1952, and papers attached thereto, the following is offered:—

Section 243, Chapter 22, Revised Statutes of 1944, as amended, provides that persons maintaining a boarding house or home for children under 16 years of age must obtain a license therefor from the Department of Health and Welfare. A prerequisite for obtaining the license is that such persons must present to the department a written statement from the designated municipal officer or the Insurance Department to the effect that the building and premises comply with the requirements of law.

Mr. Flynn states that the plan whereby municipal officers were to make these necessary inspections turned out to be entirely ineffective, and arrangements were made whereby the Insurance Department was to make such inspections, the Department of Health and Welfare agreeing to reimburse the Insurance Department for expenses incurred in making the inspections.

However, in 1949, Ralph W. Farris, then Attorney General, rendered an opinion relative to the reimbursements by the Department of Health and Welfare to the Insurance Department for the expenses incurred in carrying out the inspections, stating that such reimbursements could not be properly made, and directed the Controller to transfer back to the Department of Health and Welfare all moneys paid to the Insurance Department.

The basis of this opinion was Section 29 of Chapter 85, R. S. 1944, which section provides:

“ . . . Every fire insurance company or association which does business or collects premiums or assessments in the state shall pay to the insurance department on the 1st day of May, annually, in addition to the taxes now imposed by law to be paid by such companies or associations, $\frac{1}{2}$ of 1% of the gross direct premiums for fire risks written in the state