

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

“(2) Is it legally possible for a school committee to accept a gift of Bibles, from an organization like the Gideons, with the express understanding that the manner and extent of their distribution and use in the schools will be determined by the school committee?”

We would direct your attention to section 127 of Chapter 37 of the Revised Statutes which in part provides that in order “to make available to the youth of our land the book which has been the inspiration of the greatest masterpieces of literature, art and music and which has been the strength of the great men and women of the Christian era, there shall be, in all the public schools of the State . . . reading from the Scriptures. . .”

It is our opinion that both of your questions can be answered in the affirmative, there being nothing inconsistent with such action with respect to the above quoted provision of our law.

ALEXANDER A. LaFLEUR
Attorney General

May 6, 1953

To Allan L. Robbins, Warden, Maine State Prison
Re: Property of Deceased Prisoners

We have your memo in which you state that you have on hand an accumulation of personal property and cash belonging to deceased prisoners. You seek our advice concerning the disposition of such personal effects and cash.

When a prisoner dies in your institution leaving money on deposit, that money and other property should be disposed of under the provisions of section 47 of Chapter 23 of the Revised Statutes, which section provides that it shall be turned over to the representatives of the deceased. This property should, then, be turned over to the administrator of the estate of the deceased or to his next of kin or, if a Public Administrator has been appointed, then to him.

JAMES G. FROST
Deputy Attorney General

May 7, 1953

To Herbert G. Espy, Commissioner of Education
Re: Surplus Property

This office has been asked to certify to the Department of Health, Education and Welfare (formerly Federal Security Agency) that the surplus property program now operating in your department meets the standards set by the Federal Security Agency by regulation promulgated January 2, 1953 and found in the Federal Register, page 165, under date of January 8th. The regulation is too long to set out here, but the pertinent points will be discussed separately.

The statutes setting forth the duties of the Commissioner of Education and appropriating money to carry out this program are found in the Resolves of

1951, Chapter 39, amending Resolves of 1949, Chapter 144 . . . It should be noted that the Resolves above mentioned are substantially the same, except that the latter changes the name of the fund and extends the program to institutions not exclusively educational.

The first requirement is that the party or department designated to carry on the program shall have authority "to acquire, allocate, and distribute personal property to tax-supported and to non-profit institutions eligible to acquire same under section 203 (j) of the act". The right to acquire and distribute is clearly set forth in the Resolves. The property to be acquired is federal surplus property and must by implication be construed to mean property on such terms and conditions as the Federal Government shall attach.

The second requirement is that the party or department designated shall have the right "to acquire, warehouse, and distribute as above". We feel that the right to acquire and distribute necessarily implies the right to warehouse same during the interval between acquisition and disbursement. This is substantiated by the fact that there has been a surplus property warehouse for this purpose since 1945.

The third requirement is that the party or department designated shall have the right "to execute the agreements required by the Federal Government". We take this requirement and the term "agreement" to mean that the Commissioner, as the designated party, shall have the right to make such administrative agreements as will expedite the program at hand. By way of example: he is at this moment drawing up an administrative code of procedure that will conform to minimum requirements of this regulation and will become the mode of procedure for disbursing surplus property. We feel that this is purely administrative and allowable by virtue of his office as Commissioner of Education. This action is comparable to his distribution of State duties among his associates and deputies, a matter of sound administrative practice.

With the above constructions in mind, we do not hesitate to certify that the Commissioner's duties, as set out by our Legislature, conform to the Federal standards as of May 6, 1953.

ROGER A. PUTNAM
Assistant Attorney General

May 15, 1953

To Spaulding Bisbee, Director of Civil Defense
Re: Status of State Police Reserve Corps

We have in hand your memo of May 11, 1953, containing the following question:

"Does the State Police Reserve Corps come within the Civil Defense Act so that its members will be entitled to the benefits of the Workmen's Compensation Act, which has been recently extended to cover all civil defense and public safety personnel. (Section 2, Chapter 267, P. L. 1953.)

The State Police Reserve Corps was created by Section 9 of Chapter 273 of the Public Laws of 1951. Its obvious purpose was to supplement our efficient State Police with a highly trained ready reserve to assist our regular police forces during civil defense emergencies. Section 9 (supra) also provides that the