

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

**for the calendar years**

**1959 - 1960**

MAINE STATE  
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Section 5 further sets forth the royalty and rental payments to be paid by the licensee. It is my opinion at this point that if the Mining Bureau accepted another claim on the same land, it would be promoting breaches of the peace between a locator and one who has a prior claim which has been recognized by the act of the Mining Bureau in issuing a license to mine, which gives additional rights beyond those of the locator.

2. May the Maine Mining Bureau issue a license to mine with conditions and subsequently void the conditions, prior to issuing a renewal of the license?

Answer: Section 5, Chapter 39-B, provides that a license to mine shall be granted after the prerequisites have been met on such terms and conditions as the bureau may require and further states that such license shall be renewed on expiration providing the licensee satisfies the bureau that he has complied with the terms and conditions imposed by the bureau in his license. It is my opinion that the answer to the query is found in Section 5, in that the Bureau must determine factually whether or not there has been compliance with the terms and conditions and whether these terms and conditions are reasonable.

GEORGE A. WATHEN  
Assistant Attorney General

October 26, 1960

To: Perry D. Hayden, Commissioner of Mental Health & Corrections

Re: Admission of Children to State Hospitals

I have your request for an opinion regarding the admission of children under the age of 16 years to the state hospitals on and after September 1, 1960.

Section 143-A, B and C, C. 27, R. S. 1954, provide that Pineland Hospital and Training Center shall be maintained for the care and education of children between the ages of 6 and 16 years who are deemed by the superintendent of the hospital to be suffering from psychoses, neuroses, psychoneuroses, behavior disorders or other mental disabilities. Therefore, children between these ages should be properly sent to the Pineland Hospital and Training Center and not to state hospitals.

GEORGE A. WATHEN  
Assistant Attorney General

October 27, 1960

To: Warren G. Hill, Commissioner of Education

Re: Required courses in Public Schools — Physiology & Hygiene

I have your request for my opinion regarding the propriety of excusing certain students from instruction in the field of physiology and hygiene.

It seems clear that the State has the power to control the curriculum and studies in public schools as long as it does not conflict with a constitutional provision. See *Donahoe v. Richards*, 38 Me. 376, 392 et. seq.

Subsection VII, Section 11, Chapter 41, Revised Statutes of 1954, prescribes the duties of the Commissioner of Education:

"To prescribe the studies to be taught in the public schools. . ."

This legislative mandate is subject to certain statutory mandates contained therein and is also subject to the statutory duties of the superintending school committee. Subsection III, Section 54, Chapter 41, Revised Statutes of 1954 provides that the superintending school committee

". . . shall make provisions for the instruction of all pupils in schools supported by public money or under state control in physiology and hygiene, with special reference to the effects of alcoholic drinks, stimulants and narcotics upon the human system."

It is my opinion that the legislature has acted in this area and the agencies charged with administration of the law are without authority to exempt any student from those courses required by statute.

GEORGE A. WATHEN  
Assistant Attorney General

November 1, 1960

To: Carleton L. Bradbury, Commissioner of Banks and Banking

Re: Retirement Board authority to appoint committees

We have your memo of October 7, 1960 in which you ask if it is within the authority of the Board of Trustees of the Maine State Retirement System to appoint committees composed of members of the Board, which committees would give attention to specific areas of the Board's activities and to advise the Board or perform specific functions designated by the Board.

You are particularly interested in the Board's authority to appoint an Investment Committee with the duty to supervise investment operations. As background to your request you state:

"In connection with the latter subject, it would seem appropriate to bear in mind that investment mediums available to the Board are prescribed by statute. Within this general framework the Board has established after recommendation by investment counsel, a specific investment program which remains in force until altered by the Board. Day to day investment activity to implement this policy, to be effective, must be conducted on a day to day basis. Decisions with respect to specific securities cannot be deferred until monthly Board meetings. The authority of the Investment Committee to make these decisions, however, is limited, first, by statutory investment limitations and, secondly, by the investment program established by the Board and currently in effect."

Answer: It is our opinion that the Board of Trustees does not have authority to appoint such an investment committee.