

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

**For The Calendar Years**

**1963 - 1964**

money as "a reasonable incident to the transaction of other corporate business." It is, therefore, legal so far as your office is concerned.

It is not necessary to answer your second question.

GEORGE C. WEST

Deputy Attorney General

June 3, 1963

To: Kermit S. Nickerson, Deputy Commissioner of Education

Re: School Residence

Your memorandum dated May 23, 1963, is answered below.

Facts:

The Town of Denmark pays tuition expense to Bridgton Academy covering pupils from the Town who attend the Academy. The parents of one of the students boarding at the Academy contend that their son is entitled to Town tuition privileges. One parent (father) is a school teacher in Bayville, New York, who owns real property in Denmark upon which he pays real estate taxes; and he also pays a poll tax to Denmark. During certain school vacation periods allowed in New York the parents inhabit the Denmark residence; during all other times the parents reside together in New York. The Denmark school officials maintain that the son is not entitled to tuition privileges for the reason that the parent is not maintaining a home in Denmark during the school year.

Your department desires an opinion in order to adjudicate tuition claims before the payment of subsidy is made.

Question:

Are tuition privileges available to the son in light of the given facts?

Opinion:

We answer the question in the negative.

The applicable law is found in Chapter 41, section 44, R. S. 1954, as amended:

" . . . every person between the ages of 5 and 21 shall have the right to attend the public schools in the administrative unit in which his parent or guardian has residence. Residence as used in this section shall mean the administrative unit where the father maintains a home for his family. If the parents of the child are separated, residency shall be considered to be the administrative unit where the person having custody of the child maintains his or her home."

The question we must necessarily ask ourselves is: Whether the father is *maintaining a home* for his family in Denmark.

"Maintain" as used in section 44, may be said to be synonymous with "provide." *Webster's New Collegiate Dictionary* defines "maintain" as: "To continue or preserve in or with; to carry on." The following language appears in *Words and Phrases*, "Maintain":

" 'Maintain' means to support, to sustain, to uphold, to carry on, or continue."

"The word 'maintain' is defined to furnish means for subsistence of existence of, to keep in an existing state or condition, to keep from change, to keep up and preserve . . . "

In conclusion, the ownership of a house and the maintaining of a home are not synonymous in meaning; the term "home" imports more than the word "house." At best, the parent maintains a house in Denmark; he does not maintain a home for his son in Denmark.

JOHN W. BENOIT  
Assistant Attorney General

June 19, 1963

To: Honorable Robert A. Marden  
President of the Senate  
State House  
Augusta, Maine

Dear Bob:

You have asked the question:

"In the event of death of a legislator to what pay is his duly elected successor entitled?"

The general law reads in part as follows:

Chapter 10, section 2: "Salary and travel of members of the legislature and representatives of Indian tribes. Each member of the senate and house of representatives shall receive \$1,600 for the regular session of the legislature, and shall be paid for travel at each legislative session once each week at the rate of 5c per mile to and from his place of abode, the mileage to be determined by the most reasonable direct route. He is entitled to mileage on the first day of the session, and such amounts of his salary and at such times as the legislature may determine during the session, and the balance at the end thereof. Two dollars shall be deducted from the pay of every member for each day that he is absent from his duties, without being excused by the house to which he belongs."

The legislature (SP 30) ordered, "that there be paid to the members of the Senate and House as advances on account of compensation established by statute, the amount of one hundred and sixty dollars (\$160) fortnightly, according to lists certified to the State Controller by the Secretary of the Senate and Clerk of the House, respectively; and that the final payrolls bear the approval of the Joint Standing Committee on Appropriations and Financial Affairs."

It is clear that the pay of a legislator is for the "regular session of the legislature" and not for the 2-year term for which he was elected. The length of legislative sessions vary. It is apparent from the joint order that an attempt was made to divide the legislative session into pay periods which would coincide as nearly as possible with the term of the session. Neither the statute nor the order anticipates vacancies in a legislative office. We assume the appropriation for legislative salaries is based on payment to 185 mem-