

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

For The Calendar Years

1963 - 1964

"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-

bers. Therefore, if one of those members dies or otherwise vacates the office and a successor is duly elected to fill the vacancy, that successor would be entitled to the remaining amount of the \$1,600 which would have been due the first elected member. He is not entitled to full pay. However, there is nothing to prevent the legislature from awarding him such proportionate part of that salary as he should be entitled, notwithstanding the original January order.

Subject to the constitutional provision, Article IV, Part Third, section 7, the legislature (meaning both branches) may at any time during the session make the determination as to what amounts and at what time their salaries shall be paid; the only proviso being that "the balance be paid at the end" of the session.

Very truly yours,

FRANK E. HANCOCK

Attorney General

June 21, 1963

To: Dr. Warren G. Hill
Commissioner of Education
State Office Building
Augusta, Maine

Dear Dr. Hill:

In light of the recent United States Supreme Court decision in the *Schempp and Murray* cases, — U. S. —, relating to prayers in the public schools, we offer the following synopsis of the decisions and an interpretation of its effect on the present practice under Maine law.

The statutes before the court were, *Pennsylvania*, 24 Pa. Stat. § 15 — 1516 (in part) —

"At least ten verses from the Holy Bible shall be read, without comment, at the opening of each public school on each school day. Any child shall be excused from such Bible reading, or attending such Bible reading, upon the written request of his parent or guardian."

Maryland — a rule of the Baltimore City School Commissioners pursuant to a Maryland statute (Art. 77 § 202) which provided for the holding of opening exercises in the schools consisting primarily of the reading, without comment, of a chapter of the Holy Bible and/or the use of the Lord's Prayer. Children could be excused on request.

Maine's statute reads as follows: Chapter 41, § 145, Revised Statutes of Maine:

"Readings from scriptures in public schools; no sectarian comment or teaching. To insure greater security in the faith of our fathers, to inculcate into the lives of the rising generation the spiritual values necessary to the well-being of our and future civilizations, to develop those high moral and religious principles essential to human happiness, to make available to the youth of our