

MAINE STATE LEGISLATURE

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Yes ✓

September 21, 1967

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Maine State Museum Commission

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Status of Gifts to Museum

FACTS:

The Director of the Maine State Museum has asked this office several questions regarding new legislation on the State Museum. The reference statute is 27 M.R.S.A. § 81-87.

QUESTION #1:

Whether corporate gifts to the Maine State Museum are deductible from State corporate income taxes?

ANSWER #1:

See Opinion.

OPINION #1:

Since there are no corporate income taxes in the State of Maine, there is no problem for Maine corporations doing business exclusively in Maine. As to other jurisdictions, deductions depend on the law of the state of taxation; therefore, no general rule can be given. In a particular case, the law of the taxing state would have to be interpreted as it would be controlling.

The question of a "proper certificate" again depends on the law of the taxing state. It is our belief that a simple receipt from the Commission would be sufficient for most purposes.

QUESTION #2:

Whether gifts, especially money, can be set aside for purchase of items or for specialized research?

ANSWER #2:

See Opinion.

OPINION #2:

Gifts can be divided into two categories: 1) those earmarked for

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a specific fund or purpose and 2) those not specifically earmarked. As to the former type, the Statute controls their disposition. 27 M.R.S.A. § 85 (4) states in part:

" . . . All gifts, bequests and proceeds of endowment funds shall be used solely to carry out the purposes for which they were made."

As to the latter type, the words of the statute are more general. 27 M.R.S.A. § 85 (4) states in part that the Museum Director shall have the power:

"To accept gifts, bequests and endowments for purposes consistent with the purposes of this chapter"

This is the only limitation on gifts not earmarked for a specific purpose. The Director has these powers and doesn't need approval of any other body so long as the money is used for purposes consistent with the statute.

QUESTION #3:

Whether the Commission may embark on a membership drive?

ANSWER #3:

No.

The general rule is stated in 1 Am Jur 2nd 72:

"The powers of administrative agencies are measured and limited by the statutes or acts creating them or granting their powers, to those conferred expressly or by necessary or fair implication."

OPINION #3:

There appears to be nothing in the statute which would authorize

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such a drive. Under 27 M.R.S.A. § 83 (1) the Commission may formulate policies. However, it would appear that such a membership drive would not qualify as part of the Commission's functions under this section.

QUESTION #4:

Whether the Commission may accept property or real estate willed to it?

ANSWER #4:

Yes.

OPINION #4:

27 M.R.S.A. § 86 (1) is clear on this point;

"The Maine State Museum is authorized to accept donations of property for the sole use of the museum provided such donations are of a nature to carry out and promote the purposes of this chapter."

QUESTION #5:

Whether endowments are treated differently?

ANSWER #5:

See Opinion.

OPINION #5:

27 M.R.S.A. 85 (4) is clear on this point. The Museum Director shall have the power:

"To accept gifts, bequests and endowments for purposes consistent with the purposes of this chapter. Any funds,

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if given as an endowment, shall be invested by the Treasurer of State according to the laws governing the investment of trust funds. All gifts, bequests and proceeds of endowment funds shall be used solely to carry out the purposes for which they were made."

QUESTION #6:

Whether a regional facility can be established under the present legislation?

ANSWER #6:

No.

OPINION #6:

The present legislation is in no respect broad enough to allow for such an extension. See also Opinion #3.

QUESTION #7:

Whether there is a policy regarding straight endowment funds?

ANSWER #7:

Yes.

OPINION #7:

See Opinion #5.

WEW, Jr./mf

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