

# MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT  
OF THE  
**ATTORNEY GENERAL**

For the Years  
1967 through 1972

former are doing a necessary and charitable work and are recipients of the bounty of the State, but the latter alone represent the State itself in its sovereign capacity along charitable lines. The former are apart from the State, the latter a part of the State. Actions at law would be against the former as against any corporation, but not against the latter as no suit lies against the sovereign power. *Supra*, at 219, 222. (Emphasis supplied).

Considering together the *Orono* case and 20 M.R.S.A. § 2252, which statute does not reverse the court's decision, the conclusion reached is that the University has been declared to be an agency of the State for educational purposes, but it is a legal entity wholly separate and apart from the State.

The University is not the State of Maine. Although it is a statutory agency for educational purposes, it does not possess the general attributes of a governmental agency of the State. Control of the University is in a corporate Board of Trustees, not State officials. It is not a department of State government for purposes of the State Retirement System. Opinion of the Attorney General, April 30, 1945.

Even as an agency for the purpose for which it was established, the University is not exempt under the provision of 36 M.R.S.A. § 651, (B), because its property is not the property of the State of Maine. Exemptions must be construed strictly. The University fails to fall within this exemption.

*Question 2.*

In order for the University to remain free from taxation, its property must be "owned and occupied or used solely for their own purposes . . ." as a literary and scientific institution. 36 M.R.S.A. § 652 (B). The University of Maine is a literary and scientific institution. *Orono v. Sigma Alpha Epsilon Society*. Op. Cit. at 217.

Therefore, like any other college or university in the State of Maine, exemption from taxation is dependent upon ownership and occupation or use solely for its own purposes, i.e. education. Whether property of a literary and scientific institution is exempt is dependent upon the facts presented to the taxing authority. In this case, it would be the determination of the assessors of the Town of *Orono*, subject, naturally, to review by the courts.

JAMES M. COHEN  
Assistant Attorney General

June 5, 1968

Maynard Dolloff  
Commissioner of Agriculture  
State Office Building  
Augusta, Maine

Dear Maynard:

You have asked for a statement of your authority relative to inspecting potatoes in freight cars at Northern Maine Junction. It is my understanding that there are presently a large number of such cars of potatoes which have been sitting at this location for several days and may perhaps continue there for an undetermined time. You, as Commissioner of Agriculture, believe that it is necessary to inspect these potatoes to determine if they are now within the grade indicated on the containers in which they rest.

7 M.R.S.A. § 956 provides in part as follows:

“The commissioner shall diligently enforce all of the provisions of sections 951 to 957. He, either in person or by a duly authorized representative, shall have free access, ingress and egress to any place or any building, boat, truck, trailer, or *railroad car*, warehouse, *depot*, *station*, packing house, boat dock, or any building wherein potatoes are packed, stored, transported, sold, offered or exposed for sale or for transportation. He may also, in person, or by duly authorized representative, open any container and may, upon tendering market price, take samples therefrom. \* \* \* .” (Emphasis supplied.)

You will note that this authorizes you or your duly authorized representative to have free access to the above places wherein potatoes are packed, stored, transported, sold, offered or exposed for sale or for transportation.

A reference to 7 M.R.S.A. § 950 indicates that potatoes packed in any type or kind of container and found in a depot, station, railroad car, and other locations are deemed to be exposed for sale. The first paragraph of this section reads as follows:

“1. Expose for sale. Potatoes packed in any type or kind of container, and found in any place in the State of Maine, whether that place shall be a depot, station, warehouse, packing house, boat dock or any place where potatoes are held in storage, or loaded on a boat, truck, trailer, or railroad car or motor vehicle, shall be deemed to be exposed for sale under this subchapter.”

It is the opinion of this office that section 956 gives you, or your duly authorized representatives, full authority to inspect potatoes in the railroad cars at Northern Maine Junction. Section 954-A authorizes you to seize any potatoes if the containers bear any statements, design or device which shall be false or misleading or if the potatoes are packed in such manner that the face or shown surface is not an average of the contents of the package or if such potatoes fail to meet the minimum grade requirements established as a state grade by you or if the potatoes are not accompanied by a proper bill of lading or invoice. You may hold the potatoes in accordance with this section until they have been regraded or relabeled and accompanied by a Federal-State inspection certificate showing that the potatoes in such containers conform in every particular to the markings on such containers or until a proper bill of lading or invoice is produced.

It is the opinion of this office that you have adequate authority to inspect these potatoes.

Very truly yours,

GEORGE C. WEST  
Deputy Attorney General

June 6, 1968

Honorable Raymond M. Rideout, Jr.  
Manchester  
Maine

Dear Mr. Rideout:

**SYLLABUS:**

An allotment covers anticipated expenditures of funds made available to a department or agency during one fiscal year. An allotment may be encumbered even though the contract is for an amount greater than the allotment. It is not necessary to