

MAINE STATE LEGISLATURE

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APPROVED AND PLACED ON
FILE OCTOBER 5, 1984

LEGISLATIVE COUNCIL

September 7, 1984

CALL TO ORDER

A meeting of the Legislative Council was held in the Legislative Council Chambers, Room 327, and called to order by Chairman Charles P. Pray at 2:50 p.m.

ROLL CALL

Senators: Sen. Carpenter, Sen. Gill, Sen. Collins,
Sen. Pray, Sen. Conley

Representatives: Rep. Davis, Rep. Diamond, Rep.
Higgins, Rep. Martin, Rep. Mitchell,

Legislative Officers and Staff:

Sally Diamond - Legislative Administrative Director
Catherine Atchley - Law Librarian

DIRECTOR'S REPORT

The Legislative Administrative Director, Sally Diamond, requested authorization to contract with Gladu Roofing Company of Lewiston for the State House masonry restoration project.

MOTION

Sen. Gill moved that the request be approved.

Rep. Diamond seconded the motion and it was carried unanimously.

NEW BUSINESS

The Joint Select Committee on Job Training submitted a letter requesting authorization to hold a full committee meeting in November to complete its study of the status of the Job Training Partnership Act in Maine.

MOTION

Sen. Conley moved that the request be approved.

Sen. Carpenter seconded the motion and it was carried unanimously.

The Committee on State Government submitted a letter requesting authorization for an additional subcommittee meeting to complete its work for the study of economic development organization in Maine.

MOTION

Sen. Conley moved that the request be approved.

Rep. Davis seconded the motion and it was carried unanimously.

The long term allocation of the space formerly occupied by the Attorney General on the second floor of the State House was discussed. During the past several months, this space has been used to house the Law Library staff while repairs were being made in the Law Library.

MOTION

Rep. Diamond moved reconsideration of the decision to permanently assign this space to the Law Library.

Rep. Mitchell seconded the motion and it failed 1-9.

MOTION

Rep. Diamond then moved that the Committee on the Allocation of Legislative Space meet to analyze the need for the Constitutional Officers to have office space within the State House.

Sen. Carpenter seconded the motion and it was carried unanimously.

ADJOURNMENT

MOTION

Sen. Conley moved that the Council meeting be adjourned

at 3:40 p.m.

The motion was seconded by Rep. Martin and carried unanimously.



State of Maine
Senate Chamber
Augusta, Maine 04333

September 6, 1984

Sen. Charles P. Pray, Chairman
Legislative Council
State House
Augusta, ME 04333

Dear Sen. Pray:

During the 1st session of the 111th Legislature, the Legislature enacted PL 1983, c. 258, An Act Governing State Participation in the Federal Job Training Partnership Act, which authorized receipt of federal money and established a legislative Joint Select Committee on Job Training. The Committee's role is to exercise an oversight function of reviewing and commenting on the implementation of the federal act on a state level and to inform other members of the Legislature on the program.

The Committee members would like to issue a final report on the status of the Job Training Partnership Act in Maine before the Committee's scheduled dissolution at the end of this biennium. Toward that end, the Committee is requesting funding from the Council for a meeting to be held in November.

Thank you for your consideration of this request. We look forward to hearing from you.

Sincerely,

Handwritten signature of Larry Brown in cursive.

Sen. Larry Brown
Senate Chair

Handwritten signature of Stephanie Locke in cursive.

Rep. Stephanie Locke
House Chair

Sarah C. Diamond
Legislative Administrative Director



MAINE STATE LEGISLATURE
Augusta, Maine 04333

September 5, 1984

TO: Members of The Legislative Council
FROM: Sally Diamond *Sally*
SUBJECT: Correspondence re Attorney General's
State House Office

Enclosed for your information are copies of the Attorney General's letter to Charlie regarding the second floor State House office and the response Charlie has written.

SCD/tl



SEN. CHARLES P. PRAY
CHAIRMAN
SEN. MICHAEL E. CARPENTER
SEN. SAMUEL W. COLLINS, JR.
SEN. GERARD P. CONLEY
SEN. BARBARA A. GILL

STATE OF MAINE
LEGISLATIVE COUNCIL
STATE HOUSE
AUGUSTA, MAINE 04333

REP. ELIZABETH H. MITCHELL
VICE-CHAIRMAN
REP. LELAND C. DAVIS, JR.
REP. JOHN N. DIAMOND
REP. LINWOOD M. HIGGINS
REP. JOHN L. MARTIN

September 4, 1984

The Honorable James E. Tierney
Attorney General
State of Maine
Augusta, Maine 04333

Dear Mr. Tierney:

I am writing in regard to your letter of June 5 about the legislation passed to return to the Legislative Council the authority to assign the second floor office space in the State House. After reviewing the legislation, we believe that the amendment to 3 MRSA § 162, sub-§ 12 is sufficient to accomplish the Legislature's intent. Moreover, the Law Library, as a legislative staff agency, would be eligible to use this space under the current language.

We have also reviewed 5 MRSA § 191 again, and have reaffirmed our earlier conclusion that "State Capitol" is not limited to a particular building, the State House, but to a geographic area, the Capitol complex. I would draw your attention to several instances in the statutes where "the Capitol" appears to mean a geographic area, i.e., the Capitol Complex, and that the distinction between the "Capitol" and the "State House" seems to be intentional. See, for example 5 MRSA § 298 re the Capitol Planning Commission and 5 MRSA § 452 re historic preservation of the State House.

The Council would be happy to discuss this issue with you should you decide that further amendment is necessary. I look forward to hearing from you at your earliest convenience.

Sincerely,

Charles P. Pray
Chairman

cc: Members of the Legislative Council

JAMES E. TIERNEY
ATTORNEY GENERAL



STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
STATE HOUSE STATION 6
AUGUSTA, MAINE 04333

June 5, 1984

Honorable Charles P. Pray
Senate Majority Leader
111th Maine Legislature
State House
Augusta, Maine 04333

Dear Charlie,

Thank you for your recent correspondence regarding access to my State Capitol office and the recently enacted legislation which pertains to it. My belated response is made necessary due to the fact that I was on vacation for two weeks and did not have access to your letter until my return.

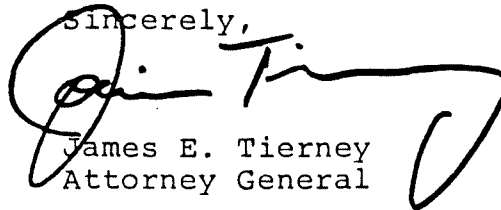
In the first instance, I would like you to know I am happy to cooperate with the Council in any way in this matter providing, of course, the relevant statutory provisions are followed. You should be aware that pursuant to the recently enacted statute, it is not clear whether the Council has the authority to assign this space to the State Law Library. The recently passed statute regarding the Offices of the Attorney General and the Secretary of State also suggests that such space could be used only for "legislative staff and for public hearing rooms," See P.L. 1984, ch. 824, Part V, which, of course, might preclude the State Law Library from utilizing the space.

Further, you should be aware that the relevant provision of the statute outlining the duties of the Attorney General which has not been amended since its adoption in 1925, mandates that the Attorney General "shall have an office in the State Capitol," 5 M.R.S.A. §191 (1979). Therefore, unless this particular provision is also changed by the Legislature, any action by the Legislative Council to move my office would also require it to create another office somewhere else in the State House in order to comply with this longstanding statutory provision.

A recent newspaper article notes that repair work will be done this summer in the State Law Library and that additional space is needed. Therefore, as I have done in previous summers, I would be more than happy to make my office available to such library staff as may need it. By copy of this letter, I am asking Senior Assistant Attorney General H. Cabanne Howard to contact the State Law Librarian immediately to see how we can be of assistance to her in meeting her short-term needs.

Finally, I look forward to the opportunity to discuss this matter with the entire Legislative Council in that I feel it involves an issue which transcends any particular holder of the Office of Attorney General

Sincerely,

A handwritten signature in black ink, appearing to read "James E. Tierney". The signature is stylized and written over the typed name and title.

James E. Tierney
Attorney General

JET/kc

cc: Honorable Joseph E. Brennan
Legislative Council
H. Cabanne Howard, Assistant Attorney General
Sally Diamond, Legislative Administrative Director ✓
Leighton Cooney, Bureau of Public Improvements

persons who have autism and other pervasive developmental disorders to the Governor and the joint standing committee of the Legislature having jurisdiction over health and institutional services. This report shall be submitted no later than January 15th of every odd-numbered year and shall be submitted in conjunction with the plan required by section 5003, subsection 3.

The committee shall study the report and make recommendations to the Legislature with respect to improving the quality and availability of services to children and adults who have pervasive developmental disorders.

PART V

3 MRSA §162, sub-§12, as amended by PL 1981, c. 702, Pt. R, is further amended to read:

12. Physical facilities for Legislature. To insure that adequate physical facilities are provided for the efficient operation of the Legislature and to provide for and determine the utilization of legislatively controlled facilities both within and without the Statehouse and, notwithstanding Title 5, section 1742, subsection 18, to control and assign the use of all rooms in the Statehouse, except the immediate offices occupied by the Secretary of State, Attorney General, the Governor and his staff on January 1, 1982 and the space vacated by the staff of the Attorney General's office. This vacated space shall be assigned for use by the Legislature as offices for chairmen of joint standing committees and legislative staff and for public hearings and ~~for~~ legislative staff hearing rooms;

PART W

28 MRSA §204, as amended by PL 1981, c. 454, §7, is repealed and the following enacted in its place:

§204. Liquor bought from commission; sale to government agencies

All persons, except public service corporations operating interstate, licensed to sell spirituous or

1.4-1223

General's written approval is required as a condition precedent to such employment. The Attorney General shall have an office in the State Capitol and shall receive an annual salary in full for all services. The Attorney General shall devote full time to his duties and shall not engage in the private practice of law during his term of office, nor shall he during such term be a partner or associate of any person in the practice of law. He shall receive his actual expenses incurred in the performance of his official duties. During his term of service, he shall not be an officer or director of any corporation engaged in business for profit within the State of Maine. The Attorney General shall be the executive head of the Department of the Attorney General, as heretofore established.

The Attorney General shall receive the following fees:

For approval of certificate of organization of corporations under Title 9-B, section 313, subsection 3, \$10 in advance;

For certificate that any corporation has ceased to transact business and is excused from filing annual returns, as authorized in Title 13-A, section 1301, subsection 4, \$5;

For advance approval of any document required or permitted to be filed under Title 13-A, that fee specified in Title 13-A, section 108.

The Attorney General shall collect the legal and usual fees payable to him by virtue of his office and shall pay them over forthwith to the Treasurer of State.

R.S.1954, c. 20, § 1; 1955, c. 473, § 5; 1957, c. 129, §§ 1, 2; 1957, c. 418, § 5; 1959, c. 361, § 5; 1961, c. 417, § 28; 1963, c. 396, § 3; 1963, c. 414, § 2; 1965, c. 141; 1965, c. 510, § 1; 1965, c. 513, § 5-B, eff. Feb. 8, 1966; 1967, c. 476, § 9, eff. July 1, 1968; 1969, c. 504, § 6; 1971, c. 439, § 7, eff. Jan. 1, 1972; 1971, c. 550, § 2, eff. Jan. 3, 1972; 1973, c. 585, §§ 11, 12; 1973, c. 711, §§ 1, 2; 1975, c. 770, § 20, eff. April 16, 1976; 1977, c. 696, § 34, eff. March 31, 1978.

Historical Note

Laws 1965, c. 141, inserted "the head of any state institution" in the first sentence of the first paragraph.

Laws 1965, c. 510, increased the salary of the Attorney General to "\$12,000" from "\$11,000".

Laws 1965, c. 513, repealed and replaced the third paragraph which prior thereto provided:

"For approval of certificate of organization of a corporation under Title 13, chapters 1 to 21, \$10 in advance."

The 1967 amendment increased the salary of the Attorney General to "\$13,000" from "\$12,000".

The 1969 amendment deleted reference to the amount of salary.

Laws 1971, c. 439, in the third paragraph, deleted "and Title 13, chapters 1 to 21" following "Title 9, sections 996, 2341 and 3206"; deleted the former fourth and fifth paragraphs which prior thereto provided:

"For approval of certificate of change of purpose under Title 13, chapters 1 to 21, \$10.

CHAPTER 9
ATTORNEY GENERAL

- Sec.
- 191. Duties; salary; fees; full time.
 - 192. Prosecution of all claims for State.
 - 193. Prosecution of intruders.
 - 194. Public charities.
 - 195. Opinions on questions of law.
 - 196. Deputies and assistants; appointment and duties.
 - 197. State criminal inspectors; clerks; office expenses.
 - 198. Additional assistant attorneys general, clerks or attorneys may be paid from moneys collected by department.
 - 199. Consultation with, and advice to, district attorneys.
 - 200. Repealed.
 - 200-A. Criminal division.
 - 200-B. Authority of Attorney General to request telephone records.
 - 200-C. State Fraud Division.
 - 200-D. Complaints and investigative records confidential.
 - 201. Attendance of witnesses; recognizances.
 - 202. Employment of detectives.
 - 203. Appropriations.
 - 204. Repealed.
 - 205. Fees from prosecutors forbidden.

§ 191. Duties; salary; fees; full time

The Attorney General, a deputy, assistant, or staff attorney shall appear for the State, the head of any state department, the head of any state institution and agencies of the State in all civil actions and proceedings in which the State is a party or interested, or in which the official acts and doings of said officers are called in question, in all the courts of the State; and in such actions and proceedings before any other tribunal when requested by the Governor or by the Legislature or either branch thereof. All such actions and proceedings shall be prosecuted or defended by him or under his direction. Writs, summonses or other processes served upon such officers shall forthwith be transmitted by them to him. All legal services required by such officers, boards and commissions in matters relating to their official duties shall be rendered by the Attorney General or under his direction. Said officers or agencies of the State shall not act at the expense of the State as counsel, nor employ private counsel except upon prior written approval of the Attorney General. In all instances where the Legislature has authorized an office, or an agency of the State to employ private counsel, the Attorney