

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1947 - 1948

December 31, 1947

To Harland A. Ladd, Commissioner of Education

Re: Chapter 357, P. L. 1947

I have your memo of December 24th relating to the above chapter providing for the formation of community school districts, and note that the Town of Fort Kent and near-by towns are considering the formation of a community school district to provide for secondary school needs in the area and that people residing in Township 17, Range 5, W.E.L.S., would like to have the benefits of a community high school available for their children. They inquire if the State, acting through your department, could participate in the organization and operation of a community school district. You ask the following questions:

- “(1) Is there any way that the State—as responsible for providing school privileges in unorganized townships—can participate in a community school district organized in towns adjacent to or near unorganized townships and providing secondary school opportunities which are available to pupils residing in Unorganized Territory?”

Answer. It is my opinion that the State cannot participate in a community school district under the provisions of Chapter 357, P. L. 1947. However, under the provisions of Section 92-I of said chapter, after organization, the community school committee shall have the powers and duties with respect to the community school conferred upon superintending school committees under the general statutes and those enumerated in Section 92-C of said chapter.

- “(2) What, if any, legislative action would be necessary to permit state participation in a community school district?”

Answer. Section 92-H of said chapter provides that when community schools are established, they may be considered the official secondary schools of the participating towns, and all provisions of general law relating to public education shall apply to said schools. Any aid from your department should come through the general statutes relating to secondary schools, with the provisions of which you are familiar. They need not, therefore, be enumerated here.

RALPH W. FARRIS

Attorney General

January 16, 1948

To D. T. Malloy, Sea and Shore Fisheries

Re: Taking and Canning of Herring

I have your memo of January 15th stating that questions have arisen in connection with the taking and canning of herring during the period, December 1st to April 15th of the following year, under the provisions of Section 34, Chapter 34, R. S.; and you ask my opinion as to whether or not any herring less than 8 inches long may be taken in Maine waters for canning purposes during this period; also whether or not any herring less than 8 inches in length, regardless of where they have been taken and regardless of the name under which they are labeled, may be processed and canned during the same period.

In answer to your question I call your attention to Chapter 248 of the Public Laws of 1947, which amends Section 200 of Chapter 27, R. S., and Section 24 of Chapter 34, R. S. The first section of Chapter 248 attempts to define sardines for the purposes of Sections 198-205 inclusive of Chapter 27, R. S., and it describes a sardine as "a clupeoid fish, being the fish commonly called herring, particularly the *clupea harengus*." Then the legislature provided that the fish and fish products described as herring shall be excluded from the meaning of the term "sardine," so that the words "herring" and "sardine" are used synonymously in this Act. This Act excludes from the definition of sardine and herring:

I. Pickled herring of any type packed in tin or glass, provided that the product is not hermetically sealed and heat processed;

II. Kippered snacks, kippered herring, cocktail spread, sardine spread, Riga sprats, sardine salad, or sardine luncheon, provided that none of these products are packed in the 1/4 or 3/4 sardine tins and provided that none of these products shall be primarily labeled with only the term "herring" or "sardine."

I again call your attention to Section 34 of the Sea and Shore Fisheries Law re-enacted in 1947, which is now Chapter 34 of the Revised Statutes of Maine by enactment of the Maine Legislature and became effective August 13, 1947. The last paragraph of Section 34 of Chapter 34, R. S., as re-enacted in 1947, practically nullifies the provisions of Section 34 of Chapter 34, R. S., with this language, "Nothing contained in this section nor in the 3 succeeding sections shall be so construed as to prohibit the taking, processing, and sale of fish and fish products which may be taken, processed, and sold by virtue of sections 198 to 205, inclusive, of chapter 27 and acts amendatory thereof."

In view of this legislation which I have described it is my opinion that herring or sardines can be taken, processed and sold, so long as they are not packed in 1/4 or 3/4 sardine tins and labeled "herring" or "sardines," under the exceptions contained in Chapter 248, P. L. 1947.

RALPH W. FARRIS
Attorney General

January 21, 1948

To Earle R. Hayes, Secretary, Employees' Retirement System
Re: Auburn Public Library

I acknowledge receipt of your memo of January 15th raising the question of whether or not the Auburn Public Library is a quasi-municipal corporation under the provisions of Section 17 of Chapter 384, P. L. 1947. In said memo you quote from a letter which you received from George C. Wing, Esq., attorney of Auburn, Maine, in which he stated substantially as follows:

"The Auburn Public Library is a corporation organized under the charitable and educational statute and is a separate entity from the City of Auburn. It received a grant from Carnegie forty odd years ago and the City of Auburn makes an annual appropriation for its maintenance and operation.