

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

**for the calendar years**

**1947 - 1948**

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.

"The help are paid by the Auburn Public Library and not by checks of the City of Auburn. They are employees of Auburn Public Library."

From the statement of facts contained in your memo I believe that this library was not established by the town. While it has an annual appropriation from the town in accordance with Section 28 of the charitable and educational chapter of the Revised Statutes as a private corporation, it is not authorized by law to perform governmental functions or to create subdivisions of its territory, endowed with power to perform and fulfill some part of its own functions within a limited territory. *Augusta vs. Augusta Water District*, 101 Maine at page 150, and *Woodworth vs. Livermore Falls Water District*, 116 Maine 86; also *D. & F. Water District vs. Sangerville Water Supply Company*, 130 Maine 217.

In view of the facts contained in your memo, and taking into consideration the definition laid down in the *Augusta Water District* case, 101 Maine 148, which reads as follows: "A body politic and corporate, created for the sole purpose of performing one or more municipal functions . . . is a quasi-municipal corporation." . . it is my opinion that the Auburn Public Library is not a quasi-municipal corporation under the provisions of Section 16, Chapter 384, P. L. 1947, so as to bring it within the provisions of the State Employees' Retirement System.

However, I should advise Attorney Wing, when you answer his letter, that it might be well for him to look into the status of the employees of the Auburn Public Library from a standpoint that they may be employees of the City of Auburn and come within the provisions of Section 16 of Chapter 384, P. L. 1947, by virtue of their employment as such, even though they may not be paid by checks of the City of Auburn. There may be some provision in the charter which would make them city employees.

RALPH W. FARRIS  
Attorney General

January 22, 1948

To Harold I. Goss, Secretary of State

I have your memo of January 22d, calling my attention to the provisions of Section 17 of Chapter 19, R. S., with particular reference to the 8th paragraph of said section, which reads in part as follows:

"Notwithstanding the preceding provisions of this section, the secretary of state may provide and issue a suitable device in lieu of new registration plates for any calendar year."

You state in your memo that under the authority of this provision of law you have issued a single number plate for use during 1948 and that the legality of this action has been questioned. You request an opinion as to whether you have authority to issue the single number plate for 1948 or any subsequent year, so long as the above provision of the statute remains in force.

In answer to your question I wish to advise that it is my opinion that, notwithstanding the first part of said Section 17 which provides that the Secretary of State shall furnish double number plates, etc., the eighth para-