

MAINE STATE LEGISLATURE

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STATE OF MAINE

R E P O R T

OF THE

ATTORNEY GENERAL

for the calendar years

1949 - 1950

porated under the laws of this state shall semi-annually . . . make a return . . . of the average amount of its deposits, excluding deposits of other banking and savings institutions, for the 6 months period, etc."

You then inquire whether in the phrase "excluding the deposits of other banking and savings institutions," the words "other banking and savings institutions" refer only to such banks as are subject to taxation under this law, or also include industrial banks, building and loan associations and national banks.

In interpreting the statute we must resort to the context and the subject matter, as enacted by the legislature.

Section 1 of Chapter 438 replaces Section 2 of Chapter 55, R. S., as amended, which relates to the deputy bank commissioner, examiners, expenses, etc. In the second paragraph of the new Section 2 of Chapter 55 the language reads as you quote in your memo, "Every savings bank, institution for savings and trust company incorporated under the laws of this state, etc." Therefore in my opinion savings banks, institutions for savings, and trust companies are the subject matter of this new amendment. Therefore it is my opinion that the legislature did not intend to include industrial banks, building and loan associations, and national banks, as they exclude deposits of other banking and savings institutions. Apparently they left out the words "savings banks" in the fifth line of said paragraph between the words "other" and "banking," because if they had intended to include industrial banks, building and loan associations and national banks, these institutions would have been referred to in the subject matter of this new section.

Paragraph 3 of the new section refers to "all loan and building associations and institutions other than savings banks, institutions for savings and trust companies," and taxes them a sum equivalent to \$2.50 for each \$100,000 or major portion thereof of their resources, etc. . .

RALPH W. FARRIS
Attorney General

September 13, 1949

To Philip A. Annas, Associated Deputy Commissioner of Education
Re: Legal Tuition Charge

I have your memo of September 13th, stating that an academy in this State proposes to charge \$200 tuition, and that the state average of per pupil cost in all schools last year was \$179.17, which amount is the maximum charge allowable to municipalities under Chapter 443, P. L. 1949, but that this academy, in dealing with students from towns not maintaining secondary schools, proposed to charge the town \$179 and the parent \$21. Upon this statement of facts you posed the following questions:

"(1) Is this procedure legal in the light of Chapter 443 (which amends Section 98, Chapter 37, R. S. 1944?)"

My reply to question 1 is in the negative.

"(2) Would such procedure be legal in the case of a public high school?"

My answer to question 2 is in the negative.

My reason for answering your two questions in the negative is based on the language contained in Section 98 of Chapter 37 of the Revised Statutes, as amended by Chapter 443 of the Public Laws of 1949, which provides that tuition shall not exceed 90% of the average cost of all pupils in the secondary schools of the State for the preceding year. Academies which are receiving State stipends and tuition from the towns for each pupil sent to the academies which are taking the places of secondary schools are bound by this statute, and any charge to the parents of pupils attending secondary schools in excess of that provided by law, would be illegal.

RALPH W. FARRIS
Attorney General

September 14, 1949

To Francis G. Buzzell, Chief, Division of Animal Industry
Re: Livestock Buyers from out of State

On reading the provisions of Chapter 417 of the Public Laws of 1949, it is my opinion that non-resident livestock dealers who carry on the business of buying livestock in the State should be licensed under the provisions of this chapter.

As I understand it, this chapter was enacted under the police powers of the State as a measure necessary for the general health and welfare of the people of the State. It makes provision for the reasonable control of non-residents who carry on the business of being dealers in livestock in the State, and it is difficult to ascertain how the department could exercise such reasonable control as to non-residents if they were not licensed, even though the non-residents represent that they will not re-sell livestock in this State. If a licensed non-resident does not choose to re-sell in this State, it simply means that he does not have to furnish the test information to his buyer, since the law, of course, does not apply beyond the geographical jurisdiction of the State of Maine.

Any aggrieved non-resident is given the right to appeal to the Superior Court of Kennebec County.

JOHN S. S. FESSENDEN
Deputy Attorney General

September 16, 1949

To Fred L. Kenney, Director of Finance, Education Department

I have examined the form which you left at my office a few days ago, together with a copy of Chapter 202, P&SL 1949, relating to assessment of State taxes for the year 1949-50.

I have taken this matter up with the State Treasurer and I think your form can be used and you can begin your advances of funds as of September 15th, subject to the approval of the State Treasurer, as provided by the statute.