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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1949 - 1950

May 15, 1950

To H. M. Orr, Purchasing Agent
Re: Bid of Pennsylvania Petroleum Products Company

Reference is made to your memorandum of May 11, 1950, which was accompanied by a letter dated May 4, 1950, addressed to you by the Pennsylvania Petroleum Products Company and signed by B. W. Sears, President, a balance sheet of that company as of November 30, 1949, also signed by the president of the company, and bid No. H-2147, which was transmitted to you under cover of the aforementioned letter of May 4, 1950.

In your memorandum of May 11, 1950, you stated in part: "You will note upon examination of the enclosed bid that they failed to sign the bid. It is requested that you furnish this office with a written opinion as to the validity of the bid."

As we view the situation, the sole question before us is whether or not, if you were to award the contract to Pennsylvania Petroleum Products Company and that company failed to carry out the contract in accordance with the terms thereof and the provisions of the Administrative Code, so called, under which you are acting, this office could secure redress for the State of Maine.

The exact legal problem presented is whether or not the letter of May 4, 1950, signed by the president of that company, to which are attached the financial statement and bid, is sufficiently specific to bind the company as a bidder even though the bid form itself is not signed.

Since the determination of this question would depend in a court trial upon the intention of the bidder, it was necessary for this office as a result of your memorandum to ascertain the exact intent of the bidder before advising you. Accordingly I talked with Mr. B. W. Sears on Thursday, May 11, 1950, during which conversation I ascertained that it was his intention to be bound by his letter of May 4, 1950. Since he assumed that he was bound by his letter, I asked him to confirm the same in writing. We have now received from him a letter dated May 11, 1950, in which he states that the letter of May 4, 1950, is binding upon that company and that if we have any question as to whether or not they are bound they would be pleased to sign a document which would be binding.

In view of the contents of his letter of May 11, 1950, I do not consider it necessary to secure any additional signature, since his letter adequately expresses his intention.

I am transmitting herewith his letter of May 4, 1950, with accompanying attachments and his letter addressed to me, dated May 11, 1950.

JOHN S. S. FESSENDEN
Deputy Attorney General

May 17, 1950

To E. K. Sawyer, Supervising Inspector of Elevators
Re: Section C, Chapter 374, P. L. 1949

I acknowledge receipt of your communication of May 9th in re Section C. Chapter 374, P. L. 1949, which relates to the duties of the elevator inspectors, You state that the above section provides the duties of the Board relating

to the installation, construction, etc., of elevators, and that the question has come up whether the Board has any jurisdiction over the construction of shaftways with respect to fire resistance, and you state that you can find nothing in your law covering this.

It is my opinion that your Board has powers and duties only in regard to the construction and installation of elevators and not in regard to anything that comes under the building codes, which in cities are a local matter, while towns have building inspectors. The shaftways would be under the control of the building inspectors, as they are part of the construction of the building, and only when it comes to installing the elevator in the shaftway would you have something to say as to whether or not the construction was safe for the installation of the elevator. Until such time as the construction and installation of an elevator is brought to your attention, you have no authority to interfere with the building committee or the architects in charge of the construction of the building.

RALPH W. FARRIS
Attorney General

May 23, 1950

To Philip A. Annas, Department of Education
Re: Tuition Liability, §§98 and 99, Laws Relating to Public Schools

As I understand your question of May 3, 1950, relative to two students whose parents live in the town of New Sharon and who are attending high school at Farmington under the provisions of Sections 98 and 99, I must assume that all the applicable provisions of both sections have been complied with except that the superintending school committee of the town of New Sharon have not approved the qualifications of the two students for occupational training, so that the narrow question of law is whether or not the approval by the superintending school committee of the qualifications of the students is a condition precedent to the right of the Commissioner to pay the appropriate amount of tuition to the receiving town and to charge the same against the apportionment fund of the sending town. You state in your question that the New Sharon school committee refuses to act on the qualifications of the students; but I notice in the correspondence which accompanied your question that it simply states that the superintending school committee of New Sharon voted not to approve payment of tuition. This may, of course, imply that they refused to pass upon the qualifications; but it does not directly so state. The clause, "whose qualifications for such training are approved by the superintending school committee of the town," as it appears in the first paragraph of Section 98, obviously was intended to give the superintending school committee of the sending town some control over the student, so that students could not willingly attend any school of their own choice at the expense of their home towns. Certainly, to this extent, this approval is a condition precedent to a youth's election to attend some other approved secondary school.

It is not the province of this office to advise any citizen as to his rights to compel action by any town officials who refuse or who fail to act within the scope of their duties. In such matters, private citizens should seek advice from their own counsel.