

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

River does not embrace potential activity on the Sheepscot River. It is the opinion of this office that before steps can be taken in this direction legislative approval is necessary.

JAMES G. FROST
Deputy Attorney General

June 20, 1952

To Roland H. Cobb, Commissioner of Inland Fisheries and Game
Re: Guides

. . . The Rangeley Lakes Guides Association complains that guides, after having lost their licenses to guide, are continuing to function as guides on a \$1 motor-boat pilot's license. The Guides Association would like to know if you could get a ruling from this department to prevent this. . .

There seems little that can be said by this department that would prevent this situation. It is obvious that a person having a \$1 motor-boat pilot's license is not authorized to be a guide. I would suggest that, in instances where such a practice is known to be carried on, the matter be presented to the County Attorney and action brought under section 119 of Chapter 33 of the Revised Statutes, which is the general penalty statute and would cover such a situation.

JAMES G. FROST
Deputy Attorney General

June 24, 1952

To Frank L. Ames, Esquire, Norridgewock

I have yours of June 12, in which you desire to have me express the reasons for the denial of the application of the Town of Norridgewock to the Maine School Building Authority.

At the outset I would like to point out to you that it was not on the advice of this office alone, that the decision was made. The problem has been discussed many times, not only in this office but with the bond counsel, Mitchell and Pershing of New York, and with counsel for the trustee bank, Judge Carroll Chaplin of Portland. There were such grave doubts as to the answer to the School District problem, that this was one of the four questions that were sent to the Justices of the Supreme Judicial Court by Governor Payne. These questions were not answered because the Justices decided that this was not a "solemn occasion". Thus, the grave doubts were still with us, and because of the serious nature of the problem and the fact that the bond issues for each town were to be "bundled" into different year groups, the Authority, on the advice of this office, as well as bond and trustee counsel, decided upon a policy of excluding from consideration any town which had a school district coterminous with the town, which it had not rejected.

It was definitely felt that to allow any town to be financed under such circumstances might jeopardize a whole issue of bonds and perhaps cast grave doubts upon the validity of the Authority's bonds. The Authority must

at all times stand clear of all possible litigation which would cast any unfavorable light upon the Authority and more specifically upon its bonds. It is one thing to issue bonds and another thing to create a market and sell them. This bond is entirely new to the field and we must go forward with extreme caution.

We are not unmindful of the wording of the Act found on page 484 of the Public Laws of 1951 that the Authority may acquire the properties of a town, a school district or community school district. This is the only reference in the entire Act to school districts. All further references are to towns or community school districts. This reference alone is not enough to allow the Authority to do business with a school district. The Authority may contract only with towns or community school districts. See Section 218, Chapter 405, Public Laws of 1951. Further, we cannot liberally construe the words of the Act to the point of doing a legal injustice to the law as it exists.

You will note that the charter of the Norridgewock School District has been amended to read as follows: "for the purpose of erecting, equipping, and maintaining on said land, school buildings, and for the purpose of maintaining elementary and high schools." See Chapter 130, Private and Special Laws of 1945. These broad general provisions delegating the power to construct and repair buildings for school purposes, raises the question, which underlies our whole theory: Did the Legislature remove the power of constructing new schools from the town itself by giving that power to a school district? The answer to this problem may be, Yes or No, but because we cannot resolve it completely one way or the other, we must, as explained above, by necessity exclude such cases from consideration.

This is not to say that you are without a remedy. The Legislature could clear up this problem with proper legislation. I cannot agree that you would have to wait ninety days after adjournment to get effective legislation, for an emergency amendment would be in order if the need is as great as your letter indicates. Until some remedial legislation is passed to clear up this situation, I feel that this office as well as bond counsel and trustee counsel, is justified in excluding from consideration those towns which have unrejected school districts, coterminous with the town.

I am sorry that this doubt has appeared and caused you and your town this delay in getting its new school. I am sure, as stated above, that this situation can be remedied.

ALEXANDER A. LaFLEUR
Attorney General

July 10, 1952

To General Spaulding Bisbee, Director, Civil Defense and Public Safety
Re: Power of Arrest

This will acknowledge your memo of June 19, 1952, and the attached letter from Martin Watson, First Vice Commander, American Legion, Veazie, Maine, who asks if there is any law that can be enforced, by which auxiliary police have the power to stop people during air raid tests.