

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1959 - 1960

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There is no authority for credit unions to purchase or deal in real estate; therefore, it is my opinion that State chartered credit unions cannot do so. This opinion does not imply that a credit union may not make loans secured on mortgages on real estate, nor is it intended to dissuade a credit union from pursuing any legal remedy in the event of the default of a mortgage loan.

GEORGE A. WATHEN
Assistant Attorney General

August 5, 1959

To: Robert G. Doyle, State Geologist, Economic Development

Re: Certain legal questions raised by the Beers Co. concerning their impending lease negotiations with the Mining Bureau

I have your request for an opinion concerning the rights of lease holders on public lands.

The basic issue is the relationship between the holders of grass and timber rights and the holders of mining rights on this land.

Section 8 of Chapter 39-B provides that a person who has located a claim and been issued a mining lease:

“. . . shall have the right of way across any lands owned or controlled by the State to and from said location, and the right to take from public reserved lots all wood and timber necessary to be used in the operation of the mine, by paying to the State or to the owner of the right to cut timber and grass, a fair and just price for the same.”

From this language it would appear that there will be no difficulty between the different lease holders. This statute sets out the rights and duties of each.

GEORGE A. WATHEN
Assistant Attorney General

August 6, 1959

To: Fred L. Kenney, Director, Administrative Services, Education Department

Re: Computation of Subsidy under the Sinclair Act

I have your request for an opinion regarding the following questions:

Question 1: How are the subsidies computed in the case where an individual town is admitted after January 1 of the legislative year to a school administrative district in existence on that date?

This question is based on the law which will become effective on September 12.

It is my opinion that we should use the town computation plus 10% in addition to the district's own computation to arrive at the total computation for subsidy. A new district is not being formed, but this is merely

adding to an existing district. I believe this procedure would conform to the computation of subsidy under Chapter 353 of the Public Laws of 1959.

Question 2: Is the subsidy under section 18, Chapter 353, Public Laws of 1959, to a group of towns forming a new district, retroactive?

The district under the section set out would be entitled to the sum of the amounts that the component towns would have received based on a computation that was previously made for the individual towns plus 10% of that amount as a bonus.

Question 3: What is the computation of a subsidy to a district formed prior to the effective date of this Act?

It is my opinion that subsidy will have to be paid to those districts subject to the prior computations for subsidy which have been figured before the effective date of this law. The theory of the new provisions for computation of subsidy is that in the second biennium of the district's existence, the district shall receive a subsidy based on the average net foundation program of the district plus the bonus provided in section 237-G.

The newly formed district has no previous net operating cost experience since we have only the information from the component municipalities regarding that operating cost, which is not necessarily accurate when applied to the district.

If I have failed to answer any of your questions to your satisfaction, please let me know and I will attempt to clarify any points which you feel have been slighted.

GEORGE A. WATHEN
Assistant Attorney General

August 11, 1959

To: C. N. Dyke, Director, Municipal Audit

Re: Fines and Court Costs in Criminal Cases

We have your request for an opinion regarding the disposition by municipal courts and trial justices of fines and court costs in the case of criminal violations of the Inland Fish and Game laws, Chapter 37, and Sea and Shore Fisheries laws, Chapter 38, both of the Revised Statutes of 1954, as amended.

The facts indicate that there has been lack of uniformity in forwarding the fines collected as a result of these violations. Some courts forward the entire fine, while others deduct \$5.00 or \$10.00 in lieu of court costs.

Section 10, Chapter 108, Revised Statutes of 1954, provides a \$5.00 fee in criminal cases and for the disposition of the funds.

Section 129, Chapter 37, provides for the collection and distribution of money received. Except in the case of short lobsters under Section 114, Chapter 38, I believe that the court may retain \$5.00 and must pay the rest as the respective statutes provide.

GEORGE A. WATHEN
Assistant Attorney General