

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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November 18, 1960

To: Doris St. Pierre, Secretary of Real Estate Commission

Re: Return of License and Examination Fees

I have your request for an opinion relating to the return of license and examination fees.

Section 5, Chapter 84, provides for an examination fee of \$10.00 which entitles the applicant to one retake examination without fee should he fail to pass the first examination, which is in addition to any other fees. There is also an initial fee for a broker's license of \$10.00 and an initial fee for a salesman's license of \$5.00 which is refunded if the commission does not issue the license. The examination fee is not refundable under the provisions of the law. An examination fee is designed to help defray the costs of investigation and examination of the applicant, whereas a license fee is an amount exacted for issuance of the license.

GEORGE A. WATHEN
Assistant Attorney General

November 22, 1960

To: Carleton L. Bradbury, Chairman Maine State Retirement System

Re: Participation Note for Houlton MIBA Loan

I have your request for our opinion on the protection afforded the Maine State Retirement System in participating in the financing of the Morningstar-Paisley plant in Houlton. As has been previously stated in our opinion dated May 27, 1960, you have authority to participate in the financing of such a project and after having looked over the new arrangement which will result in you holding a mortgage, I believe you are completely protected. It should be kept in mind at all times that the mortgage upon which the notes are based is guaranteed by the Maine Industrial Building Authority.

GEORGE A. WATHEN
Assistant Attorney General

November 28, 1960

To: Warren G. Hill, Commissioner of Education

Re: Release of Funds in Reserve Account for Building Equipment

I have reviewed the request from the Town of South Berwick, forwarded by Superintendent Hubert E. Redding, relating to the release of funds now held in the reserve account to be used for building equipment.

This matter was discussed with Robert Mitchell, Esq., our bond counsel. Although I am in sympathy with the request and feel it to be meritorious, I cannot see a way in which these funds can legally be used for this

purpose. The application and correspondence between the Maine School Building Authority and the town specifically negates the use of funds derived from this bond issue for that purpose. The existing agreements cannot be altered without impairing third party rights.

GEORGE A. WATHEN
Assistant Attorney General

November 29, 1960

To: Dr. Howard L. Bowen, Maine School Building Authority

Re: Expended Funds Re Auburn Project

In looking over the correspondence concerning payment of the \$45,000.00 for the land of the Auburn High School, I note that \$4,500.00 was to be paid in cash and nine serial promissory notes in the sum of \$4,500.00 without interest, one maturing each year were to be treated as payment of this project. Therefore, in regard to your question of whether or not we should treat the \$4,500.00 as spent so that we may release Maine School Building Authority funds for the remainder of the project, I am of the opinion that we should treat the entire \$45,000.00 as having been spent. My reasons for this: (1) No money could be released for nine more years if we did not so treat it; (2) The arrangement for payment was agreed upon by the Maine School Building Authority and the underlying purpose was at the vendor's request; (3) We have title to the property free and clear of encumbrances at the present time; and (4) This arrangement has committed the City to payment in a different manner than usual but with the same net result. Therefore, the Authority should consider that if the remaining money has been spent, that the balance due on the property should be considered expended at this time.

GEORGE A. WATHEN
Assistant Attorney General

November 29, 1960

To: Andrew Watson, Assistant Chief, Inspections, Agriculture

Re: Rules and Regulations Re Grades of Sardines

I have your request for our opinion relating to rules and regulations relating to the grades of sardines. As I understand the facts, rules have been promulgated regarding packing of $\frac{3}{4}$ size (12 oz.) cans of mustard packs. Some of the lots have been inspected and found to be substandard. The query now raised is whether the Commissioner can declare a moratorium on the rules setting up these grades and whether or not, after hearing, new rules relating to these particular grades could be promulgated which would be retroactive, so as to make those lots presently substandard eligible for sale as standard sardines.