

# 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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mortgages in the State of North Carolina and that the usury laws of that State would not apply to the transaction.

We note that under Title 24, Part 221.1 Code of Federal Regulations, the Maine State Retirement System, as a governmental agency, is approved as a mortgagee under section 203 of the National Housing Act insofar as it is empowered to hold mortgages insured under Title II of the National Housing Act as security or as collateral.

JAMES GLYNN FROST  
Deputy Attorney General

December 28, 1960

To: Kermit S. Nickerson, Deputy Commissioner of Education

Re: Thornton Academy

I have your request for an opinion of December 16, 1960, in which you ask the following questions:

"1. Is there any way a contract academy could utilize the Maine School Building Authority?"

Answer:

Subsection V, Section 248, of Chapter 41, R. S. 1954, states that the Maine School Building Authority may build and repair school projects when the superintending school committee of any town or the community school committee of a community school district or the school directors of any School Administrative District has certified the need therefor to the municipal officers of the town for the procurement or addition of school buildings.

Under the present set up the Maine School Building Authority may deal with any administrative unit. The term "administrative" as defined in Section 236 of Chapter 41 includes municipal and quasi-municipal corporations responsible for operating public schools.

Under the provisions of the Maine School Building Authority law and the procedures which have been set up to effectuate the purposes, there is no machinery or authority for dealing with a privately owned academy.

"2. Could a joint effort with the City of Saco for a gymnasium or recreation center be eligible?"

Answer:

This question appears to be an attempt to avoid the inability for the academy to deal directly with the Authority by bringing in a city which, of course, could deal with the Authority in building school buildings. In my opinion a recreation center would not be eligible but a gymnasium, if a part of the school program, might be eligible. The property would necessarily become the property of the City of Saco under the terms of the lease agreement.

"3. Is there any obstacle to getting Federal aid if the state can classify a contract academy with its public schools?"

Answer:

To the best of my knowledge there is no Federal aid for school construction at the present time. If this question is directed in reference to the National Defense and Educational Act, I am not sure what field you are specifically referring to and would not be able to answer this question. If the question relates to Federal aid for school buildings or capital expenditures, I would not be in a position to hazard a guess as to what Congress might or might not do.

"4. Would the state computation of subsidy, based on Saco's payments of tuition, have any influence on the Federal position with Thornton Academy?"

Answer:

As I have stated in answer to question 3, I know of no Federal law relating to aid to states for capital expenditures and therefore could not hazard a guess as to what may or may not be in the law.

GEORGE A. WATHEN  
Assistant Attorney General

December 29, 1960

To: Walter B. Steele, Jr., Executive Secretary of Maine Milk Commission  
Re: Sale and Delivery of Milk on Land Owned by the United States Government

We have your request dated October 4, 1960 for an opinion with regard to whether or not the Maine Milk Commission has the power to regulate the sale of milk in the Capehart housing project attached to Dow Air Force Base at Bangor.

It appears to be the settled federal law that State Milk Commissions retain jurisdiction over federal projects where exclusive jurisdiction over the area in question has not been accepted by the federal government. *Pennsylvania Dairies, Inc. v. Milk Control Commission*, 318 U. S. 261. In this connection I have been in touch with the Department of the Air Force in Washington and they have informed me in a letter of December 23, 1960 that federal jurisdiction has not been accepted by the United States over the existing Capehart housing project located approximately one mile northwest of Dow Air Force Base.

It is our opinion, therefore, that the Maine Milk Commission has the power and authority to regulate the price of milk within this area. It should be noted, however, that additional housing is planned on an area immediately adjacent to the Base on Griffin Road and State Route No. 222. No action has been taken to accept federal jurisdiction over this latter housing area.

THOMAS W. TAVENNER  
Assistant Attorney General