

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calender years

1961 - 1962

ter for any market, including but not limited to any discount, rebate, gratuity, advertising allowance or combination price for milk with any other commodity.”

We do not believe the practice is an act destructive of prices established for the sale of milk. The practice approaches a consignment with title to the product remaining in the vendor dealer and the store paying for so much of the dealer’s milk as is sold within a specified period. Sale on a consignment basis is not prohibited by the Maine Milk Commission law, but, to the contrary, appears to be recognized in section 1 (defining dealer) and again in that portion of section 4 authorizing dealers who purchase or receive milk for sale as consignee to deduct an allowance for transportation.

Very truly yours,

JAMES GLYNN FROST

Deputy Attorney General

June 2, 1961

To: Earle R. Hayes, Executive Secretary of Maine State Retirement System

Re: Status Under the Retirement System of Berwick Academy and North Yarmouth Academy

We have your memo of February 13, 1961 in which you ask if certain academies now participating in the Maine State Retirement System revert to strictly private schools can they then, in their status of private schools, withdraw from the Maine State Retirement System.

We gather that the schools in question have never been purely public schools; that is, schools supported by general taxation, open to all free of expense, and under the control and superintendence of agents elected by the voters, but that they are institutions incorporated by special charter or under the laws of a state, and are controlled in most instances by their own officers. Occasionally such an academy may be governed with respect to certain matters by a joint board composed of trustees of the academy and a superintending committee of a town, but such joint board does not actually change the overall status of the school. See chapter 41, section 105, R. S. 1954 as amended, as to joint boards.

Membership in the Maine State Retirement System is as a result of legislation, and notwithstanding that such schools are private in nature.

The statutes authorizing participation by such academies remain unchanged on our books, and are of such a tenor that the academies are in the System regardless of their private, semi private, or other status.

Pertinent statutes are as follows:

1. Section 3, chapter 63-A, provides that “employees” become members of the Retirement System as a condition of employment.

2. “Employee” is defined in section 1 of chapter 63-A as meaning “. . . for the purposes of this chapter (Maine State Retirement System law) teachers in the public schools . . .”

3. “Public schools” are defined in section 1 of chapter 63-A as follows:
“ ‘Public school’ shall mean any public school conducted within the State under the authority and supervision of a duly elected Board of

Education or superintending school committee and any school which received any direct state aid in 1950, and municipal tuition funds amounting to at least the amount of such state aid, during the same year.”

The academies in question are not participating districts of our system under the provisions of section 17, subsection VII, chapter 63-A (a section authorizing any educational institution in the State teaching courses equivalent to or higher than secondary institutions to participate in the benefits of the system) but are members of the system by virtue of coming within the definition of “public school” above quoted — because they received direct State aid in 1950, and municipal tuition funds amounting to at least the amount of such State aid, during the same year.

Participating in our System by virtue of such statutes, the statutes remaining unchanged, compels the conclusion that the teachers of such schools remain in the System and the academies may not withdraw from participation in the System.

JAMES GLYNN FROST

Deputy Attorney General

June 7, 1961

To: Lawrence Stuart, Director of State Park Commission

Re: Park Regulations in Town of Cape Elizabeth

We have your request for an opinion as to the applicability as to town regulations on State owned land at Crescent Beach and the question of whether or not the Police Department of the Town of Cape Elizabeth has authority to enforce the ordinance.

Although no city can exercise control over State property that will interfere with the authority of the State, “The city laws may be enforced upon state territory as elsewhere so long as they do not encroach upon its sovereign rights or powers. State and county property are frequently within the limits of municipalities.” McQuillin Municipal Corporations, Volume 2, page 307. See also *Day v. City of Salem*, 131 Pac. 1028 (Oregon, 1913).

It is our opinion, therefore, that ordinances adopted by the Town of Cape Elizabeth, when not conflicting with State Park regulations, are applicable to the Crescent Beach property and can be enforced by the Police Department of the Town of Cape Elizabeth.

We also notice that you request an opinion as to whether municipal police have authority to enforce State Park Commission rules and regulations inside a park within that municipality. Again we point out that the municipal police departments of the various towns have authority to enforce the rules and regulations on State owned land providing that enforcement in no way conflicts with the interests of the State. It is, therefore, our opinion that the Police Department of the Town of Cape Elizabeth has authority to enforce State Park Commission rules and regulations, and any other State law, within the confines of the State property located at Two Lights.

THOMAS W. TAVENNER

Assistant Attorney General