

MAINE STATE LEGISLATURE

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June 21, 1961

Richard E. Reed, Exec. Secretary

Maine Sardine Council

George C. West, Deputy

Attorney General

Proposal by University of Maine to Provide Laboratory Facilities

You have submitted a memo concerning a proposal by the University of Maine to erect a laboratory building to specifications of the Maine Sardine Council on the basis of a twenty year lease at approximately \$24,000 a year rental.

The first question asked is whether the Council has the authority to negotiate a twenty year lease. This office feels that your question must be answered in the negative. There are several reasons why such a lease would be impossible. This would be a lease between two State agencies so that in the event of breach of the contract the State would, in substance, have to sue itself. This, of course, would be impossible. There is also the question as to whether a State agency could execute a valid lease which would bind the legislature to continue a law whereby money would be available to pay the rental. I would doubt that such a lease would be valid as the agency has no authority to bind future legislatures to the provisions of a present law. There are, perhaps, some other reasons which have not been fully explored but could also be reasons for objection to this type of agreement.

You next ask what is the limit of the number of years for which a lease could be negotiated. I think that any lease, as such, might not be valid between State agencies. If a contract between the Maine Sardine Council and the University of Maine could be legally made, I would feel that it would have to be limited to a two year proposition coincident with the biennium of the State. At this time I have not thoroughly gone into the matter of whether or not such a contract could be negotiated. I almost feel that it could not, because of the fact that the State would be suing itself if either party breached the contract.

Your next question concerns the situation in the event a twenty year lease were possible and the sardine tax should be repealed prior to the termination of the lease. I think your question answers itself in that no one would be responsible for the unpaid balance and, therefore, the validity of the lease would be questionable as it would not be binding for the full twenty year period.

(C.16 9-60-269) Your last question is whether or not it would be possible to write into any contract or lease that in the event of the repeal of the Sardine Tax Law the lease immediately becomes void with no obligation to the State or individuals. This, of course, would not be possible because it would not then be a binding contract or lease for the full twenty year period.

GEW:H

George C. West
Deputy Attorney General