

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT
OF THE
ATTORNEY GENERAL

for the calender years

1961 - 1962

form a school administrative district under Chapter 41, Section 111-F, subsection IV.

The question is whether or not the superintending school committee of the community school district should make the recommendation to the Maine School District Commission for the formation of the School Administrative District or whether the towns within the community school district who no longer have superintending school committees should elect new superintending school committees for the purpose of recommending the formation of the School Administrative District.

It is our opinion since the superintending school committee of the community school district is the body responsible under the law for the education of the children within the community school district and the superintending school committees of the various towns are not in existence and have no responsibility, the proper agency to make the recommendation is the superintending school committee of the community school district.

RICHARD A. FOLEY

Assistant Attorney General

October 24, 1961

To: Carleton L. Bradbury, Commissioner of Banks and Banking

Re: Bond-Mortgage Swaps

Your memo of October 6 has asked a question relative to the swapping, by banks, of bonds for FHA or VA mortgages and how this transaction shall be carried on the books of the bank.

The typical situation seems to involve a swap at current market price, usually below the par value figure and at a time when the market value of the bonds is below the actual cost of the bonds to the bank.

The question is whether the mortgages shall be entered on the bank's records at their current market value or at their par or face value.

The Revised Statutes, 1954, Chapter 59, section 19-J, II, provides in part:

“No item of assets shall be entered on the books of the bank at a figure in excess of its *actual cost* to the bank; . . . ” (Emphasis supplied)

This language seems to be very definite, clear cut, and not susceptible of any ambiguous meaning. Any asset purchased or obtained by the bank must be carried on its books at no more than its *cost* to the bank. The matter of *value* does not enter the picture. The bank's records must reflect the *cost* to the bank. The asset may have a *value* in excess of the *cost* but the latter is the figure to be carried on the books of the bank.

In the event a bank swaps bonds for mortgages worth an equivalent amount, at the current market price, that figure represents the *cost* of the mortgages and is the figure to be carried on the books of the bank.

This is confirmed by the next clause following that quoted above, which reads:

“nor shall the book value of any such item be thereafter increased,

except upon the written authorization of the Bank Commissioner, or
.....”

This clause differentiates between *cost* and *book value*. When circumstance requires, the Bank Commissioner may approve the increased *book value* to be entered upon the records, but until that time the asset shall be carried at its *cost* figure.

We feel that a careful reading of sections 19-J, I, III, and second paragraph of IV, bears out this opinion as to the method of recording such swaps on the books of the bank. By these provisions a bank is to record its financial transactions so as to accurately and promptly reflect its condition and earnings.

GEORGE C. WEST

Deputy Attorney General

October 24, 1961

To: Irl E. Withee, Deputy Commissioner of Banks and Banking

Re: Proposed Program of Cambridge Consultants, Inc.

We have your request for an opinion dated October 19, 1961 with regard to the proposed program of Cambridge Consultants, Inc. This program would make available to Maine industry additional banking services. The proposed services will be taken up in the order in which they were presented to us.

1. It is not a violation of the banking law in a program by which a registered bank places racks containing bank-by-mail materials in or on the company premises.

2. It is not a violation of the banking law for a bank to make such materials available to a company through specified personnel within that company.

3. It is not a violation of the banking law for banks to give preferred rates for loans and other bank services to long-term employees.

4. It is not a violation of the banking law for a bank to give financial counseling to company employees either at the employee's home, at the bank, or via the telephone.

5. It is not a violation of the banking law for company employees to serve as "plan advisers" whose function would be to answer questions about the plan.

6. It is not a violation of the banking law for the company to be authorized by the employee to make payroll deductions for transmittal to the bank.

7. We do not at this time feel that we can approve a service by which the bank would take over payroll functions of the company. This office feels that a more thorough study of this question would be warranted before any conclusion can be drawn. For this reason, we neither approve nor disapprove of this proposal.

8. It is not a violation of the banking law for a bank to give away an inexpensive item to each employee opening an account.

An opinion with regard to item No. 7 above will be issued as soon as the necessary research has been done.

THOMAS W. TAVENNER

Assistant Attorney General