

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calender years

1961 - 1962

The four basic criteria which are essential in proving State employment are as follows:

1. The individual was employed in the usual manner by which State employees were hired at the time in question.
2. The employee performed a function for the State.
3. The pay of the employee was received through usual State pay procedures.
4. The funds from which the employee's salary was paid should be State funds or at least partially from that source.

If the Board of Trustees is satisfied that the employee's prior employment meets these four criteria, the Board of Trustees may give him prior service credits. If the employee's employment does not meet these criteria, then he was not an employee of the State and is not entitled to prior service credits.

GEORGE C. WEST

Deputy Attorney General

November 10, 1961

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

Re: In-plant banking services

We have your request of October 31 for an opinion in regard to in-plant banking services proposed by Cambridge Consultants, Inc. We understand that you want our opinion as to the legality of a Maine bank conducting services for a corporate client, which services would include taking care of payroll obligations and other clerical assistance made possible through the use of various computers and other machines in the possession of the bank.

We have examined the law with regard to this matter and find that it is now an established principle that a banking corporation may act as an agent, broker or bailee if the exercise of such a function in a particular case and manner may be taken to be legitimately and incidentally connected with the transaction of the banking business.

It is, therefore, our opinion that the services proposed by Cambridge Consultants, Inc. in item number 7 of their original letter to you would be perfectly legal and proper when conducted by a properly licensed Maine banking institution.

THOMAS W. TAVENNER

Assistant Attorney General

November 22, 1961

To: Kermit S. Nickerson, Deputy Commissioner of Education

Re: Use of School Property at Loring Air Force Base for Sunday School Purposes

This department has been requested to render an opinion relative to the use of school property located on Loring Air Force Base for so-called Sunday School purposes. The situation appears to be as follows: Public buildings owned by the

federal government located on a federal reservation are presently being used as school facilities under the direction of the school committee of the Town of Limestone. The school committee operates the schools under a use and occupancy permit issued by the federal government to the school committee of the Town of Limestone but title to the building remains in the federal government. The pertinent sections of the permit issued by the federal government are as follows:

- "1. That the Agency (Limestone School Committee) shall conduct in such facilities an education program for children residing on Loring Air Force Base as a part of the Agency's school system in accordance with the laws of the State of Maine."
- "3. That the Agency (Limestone School Committee) shall use the Property during the term of this permit for the purpose described above, subject to such reasonable rules and regulations relative to ingress, egress, security, and non-school use as may be prescribed by the Secretary of the Air Force or the Officer in charge of the installation with the approval of the Commissioner of Education."
(Words in parenthesis supplied)

The federal government at this time wants to use the school property for Sunday School instruction not during regular school hours. If the federal government interprets "non-school use" as used in paragraph 3 recited above to mean a reservation of uses for the purpose of Sunday School instruction not during regular class hours, we have no quarrel with such an interpretation. Since title to the building remains in the federal government and the school committee of Limestone has use and occupancy for limited purposes, the federal government can make such uses of the building as it deems necessary.

RICHARD A. FOLEY

Assistant Attorney General

November 27, 1961

To: Ralph L. Langille, Chief Inspector of Boilers, Labor and Industry

Re: Boilers in Buildings used for Schools for Religious Instruction

You have apparently asked several questions relative to buildings used by religious groups for the purpose of religious instruction. I will try to break these down and answer each as it appears. Before I answer each question it may be advisable to set forth certain generalities that govern the individual situations covered in your memo.

Chapter 30, section 72 as amended by Public Laws of 1955, Chapter 404, section 2, reads in part:

"Each steam boiler used or proposed to be used within this State and all hot water supply and hot water heating boilers located in schoolhouses and all boilers owned by municipalities, except boilers exempt under the provisions of section 78, etc."

Thus it appears that each steam boiler wherever situated is subject to inspection. (Of course, steam boilers exempted under section 78 are not subject to inspection.) Therefore, we are not concerned with whether a building is a schoolhouse or not if the building is heated by a steam boiler.