

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT
OF THE
ATTORNEY GENERAL

for the calender years

1961 - 1962

December 10, 1962

To: Irl E. Withee, Deputy Bank Commissioner

Re: Legality of Certain Investments

You have asked if certain bonds and serial notes issued by three out-of-state churches may be legally purchased by Maine savings banks.

The answer to the general question is in the affirmative.

Beyond this is the additional question as to whether these bonds and notes are loans to religious associations or investments in securities. If they are the former, there is no stated limitation in the amount to be held by a savings bank. If they are the latter, there are definite limitations on the amount that a savings bank may purchase.

Chapter 59, section 19-H, provides in part:

“Savings banks may hereafter invest their funds in *loans* to individuals, partnerships and corporations, . . .” (Emphasis supplied).

Chapter 59, section 19-I, provides in part:

“Savings banks may hereafter invest their funds in *securities*, in addition to loans authorized under the provisions of section 19-H, . . .” (Emphasis supplied).

The legislature, by its wording in these two sections, has clearly indicated there is a difference between *loans* and *securities*.

A loan is defined as “an act of lending; a lending.” Securities are defined as “an evidence of debt or of property, as a bond, stock certificate or other instrument.”

Thus, a loan may be called a personal transaction between two persons, the lender and the borrower. It may be secured or unsecured. No other person or agency need be involved.

A security, on the other hand, is a paper or some evidence of indebtedness, generally, issued for sale to the general public. Such securities are usually in the form of bonds, notes, stock certificates, etc.

From an examination of the material submitted with your question it is concluded that the bonds and notes are securities. Hence, they come under the provisions of section 19-I.

GEORGE C. WEST

Deputy Attorney General

December 20, 1962

Honorable Irenee Cyr
Member, House of Representatives
5 Forest Avenue
Fort Kent, Maine

Dear Sir:

This is in answer to your letter of December 13, 1962. I understand your question to be whether or not the municipal officers can include on the ballot for the formation of a school administrative district an article calling for the

election of directors of the proposed district. Section 111-F, paragraph IV, provides that:

“. . . the question of the formation of the proposed school administrative district and *other questions relating thereto* to be submitted to the legal voters of the municipalities which fall within the proposed school administrative district. . . .”

One of the articles required in paragraph IV is to choose school directors to represent the town on the Board of Directors. It is my opinion that the law clearly requires that the directors be chosen when the town votes on whether or not to join the school administrative district.

Very sincerely yours,

RICHARD A. FOLEY

Assistant Attorney General

December 21, 1962

To: Philip A. Annas, Executive Director, Division of Instruction, Education Department

Re: Disposal of Used Textbooks

This is in answer to your memorandum of November 29, 1962, inquiring as to the procedure to be used in disposing of used school textbooks to a charitable organization to be shipped to the Philippines for use in their schools.

The best procedure in this case would be for the school committee to vote authorization for the gift of such used school books to the charitable organization and to send the vote to the municipal officers or city council with the request that they concur in the vote of the school committee.

In this way, both the superintendent of schools and the school committee would be protected against any possible charge of illegal disposition of school property.

RICHARD A. FOLEY

Assistant Attorney General

December 21, 1962

Honorable T. Tarpay Schulten
Woolwich
Maine

Dear Tarpay:

I am enclosing a copy of two different opinions rendered by this office on the question of conflict of interests as a member of the Executive Council.

We have examined both opinions and the act creating the Committee on Educational Television. We believe that the reasons advanced and the conclusions reached in each of the opinions equally apply to a member of that Committee.