

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

For The Calendar Years

1963 - 1964

- (1) Abandonment of the present kitchen and cafeteria followed by construction of a new kitchen and cafeteria in another part of the building.
- (2) Expansion of the present home economics quarters.
- (3) Construction of a school library, where none exists at present.

This project results in the conversion of a balcony area.

Question:

Whether such changes qualify for state construction subsidy under chapter 41, section 237-H, Revised Statutes?

Answer:

The proposed changes do qualify for such aid.

Reason:

Abandonment of a school facility causes such facility to cease to exist for beneficial use. Later construction of a like facility in another part of the building qualifies for construction aid for the reason that such construction produces an additional school facility. The same reasoning applies to the construction of the school library. (See definition of "major alteration" in said section 237-H.)

The expansion of the home economics quarters will qualify for aid provided such expansion results in providing additional school facilities, i. e., an increase of facilities over former facilities offered.

JOHN W. BENOIT
Assistant Attorney General

February 20, 1963

To: James L. Brown, Elementary Supervisor of Education

Re: Disposal of Milton School Building and Lot

Your memorandum of February 6, 1963, is answered below.

Facts:

The State of Maine presently holds title to school buildings and a lot located in unorganized territory, which property the State wishes to dispose of by sale. The Milton Bible Church desires to secure the property through its pastor who is a member of the Northeastern Gospel Crusade, Incorporated of Vermont.

Question:

- (1) Whether the Milton Bible Church possesses the legal capacity to take title to the property?

Answer:

No.

Question:

- (2) Whether the pastor of the church has the capacity to take in the name of either the Northeastern Gospel Crusade, Incorporated or the Milton Bible Church?

Answer:

No.

Reasons:

According to the records of the Secretary of State, the Milton Bible Church is not a Maine corporation. Neither does the organization qualify to take land pursuant to § 19, c. 57, R. S., there being no board of deacons. Though the Northeastern Gospel Crusade, Incorporated, may be considered capable of taking title by reason of its having a corporate existence, still the transfer of title to a member of that entity may not constitute a transfer to the entity itself.

Section 164-A, chapter 41, Revised Statutes, provides for the sale of school property in unorganized territory. The section is not restrictive relative to the type of sale, i. e., sale on sealed bids or private sale. The manner of securing purchasers is left to the commissioner's discretion. Because you indicate that more moneys may be realized from the sale by sealed bids, that manner of transaction has merit.

In conclusion, you express concern, generally, whether proposed grantees have the proper status to acquire title to real estate. Though that inquiry is of interest to you, still, the grantee is the person having the task of determining his capacity to take and hold real property.

JOHN W. BENOIT

Assistant Attorney General

February 25, 1963

To: Honorable Clarence V. Harrington
House of Representatives
Augusta, Maine

Dear Mr. Harrington:

Re: Legislative Document 1373, An Act Relating to the Application of the Christmas Tree Law to Knox, Lincoln and Waldo Counties.

You have asked this office about the constitutionality of Legislative Document 1373, An Act Relating to the Application of the Christmas Tree Law to Knox, Lincoln and Waldo Counties. The proposed legislation seeks to exempt Knox, Lincoln and Waldo Counties from the operation of sections 67-A, 67-C, subsection II 67-E, 67-F and 67-I of Chapter 36.

Sections 67-A to 67-J were enacted by Public Laws 1959, Chapter 283. Some of the sections were amended in 1961. Section 67-A prohibits the transportation for commercial purposes Christmas trees or evergreen boughs without registering with the state forestry department. Fee is \$1.00. Section 67-C, subsection II, calls for a person transporting trees or boughs to have landowner's permit and registration on person or in the truck. Section 67-E gives the forest commissioner right to suspend or revoke registration upon certain conditions. Section 67-F allows qualified officers to make inspection and seize and hold trees or boughs until proof of landowner's