

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

For The Calendar Years

1963 - 1964

The courts recognize the distinction between the act of increasing the number of components of an existing group as against the act of establishing a new group. *State ex rel. Knight v. Cave*, 52 P. 200, 20 Mont. 468. An example of the former would be an increase in the inventory of units of shop equipment; and an example of the latter would be the original establishment of an inventory of shop equipment. The former would not constitute the providing of "additional facilities," the latter would.

An authorization of State subsidy pursuant to the given facts would mean that the State would subsidize purchases of property by schools in this State even though said provisions would not amount to the providing of additional school facilities. Our Legislature has not yet authorized such expenditure of State subsidies.

JOHN W. BENOIT
Assistant Attorney General

June 16, 1964

To: Ruth A. Hazelton, Librarian

Re: Municipal Appropriations to Private Libraries

Facts:

A recently enacted Federal law which provides financial assistance to public libraries has raised a question as to the right of municipalities to appropriate funds to privately owned or controlled libraries.

Question:

May a municipality make a general appropriation to a privately owned or controlled library?

Answer:

Yes. See opinion for conditions.

Opinion:

There can be no question of the power of a municipality to raise and appropriate money for public libraries. This is clearly provided in ch. 42, § 29, and in ch. 90-A, § 12, III, A. A village corporation may do the same. *Ch. 42, § 30*. Also, *ch. 42, § 31*, provides that a municipality may raise and appropriate money to secure for its inhabitants free use of a library located in an adjoining municipality. Two or more towns may unite in establishing and maintaining a library. *Ch. 42, § 32*.

The crux of the matter is an interpretation of ch. 42, § 34. This section reads:

"Any town or city in which there is a library owned or controlled by a corporation or association or by trustees may levy and assess a tax and make appropriation therefrom annually to procure from such library the free use of its books for all the inhabitants of the town or city, under such restrictions and regulations as shall insure the safety and good usage of the books; and such library shall then be considered a free public library within the meaning of this chapter and said town or city shall be entitled to the benefits of the preceding section."

A careful reading indicates that a municipality may, by an appropriation, purchase for its inhabitants the free use of the books owned by a private library. If the library upon assurance of an appropriation from the municipality makes its books freely available to the inhabitants, then it is considered a free public library. The law does not limit the use to which the municipal appropriation may be made. Its use is within the discretion of the managing board of the library.

GEORGE C. WEST
Deputy Attorney General

June 22, 1964

To: George F. Mahoney, Commissioner, Insurance

Re: Brokerage Firm to handle state insurance and commission fund to pay deductible losses.

Facts:

The Chairman of the Governor's Committee to study insurance on State-owned property has submitted two questions propounded by a member of his Committee relating to the study of the Committee.

Question No. 1:

Within the framework of present insurance statutes and regulations, can an insurance brokerage firm be created and licensed to deal only with insurance on property in which the State has an insurable interest?

Answer:

Yes.

Opinion:

There is no statutory prohibition to the creation and licensing of a brokerage firm to deal only with insurance on property in which the State has an insurable interest.

A partnership, company, or corporation may be licensed as an agency or broker provided it meets the organization license requirements as set forth in R. S. Me. 1954, c. 60, § 273-E, as amended. Subsection V of this section provides:

"A person authorized to transact business for the organization must comply with the requirements of section 273-D."

R. S. Me. 1954, c. 60, § 273-D, as amended, establishes the requirements for the obtaining of an individual license as an agent, broker, or adjuster. R. S. Me. 1954, c. 60, § 273-G, as amended, states in part:

"If the applicant complies with the pertinent requirements of sections 273-D and 273-E, the commissioner shall issue him the license for which he applies."

There are no requirements of §§ 273-D and 273-E which could not be complied with by a brokerage firm created to handle only state insurance; and if the requirements of §§ 273-D and 273-E are complied with, the Commissioner shall issue the license.

There are no administrative rules or regulations of the insurance department which would prohibit the licensing of a brokerage firm created to handle only insurance on state property.