

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

**This document is from the files of the Office of  
the Maine Attorney General as transferred to  
the Maine State Law and Legislative Reference  
Library on January 19, 2022**

20  
December 29, 1964

Kermit S. Nickerson, Deputy  
Commissioner  
John W. Benoit, Assistant

Education  
Attorney General

State Teachers' College Transfer of Title to Water Lines Existing  
under Public Way; Public Utilities Commission Order #17.

**FACTS:**

Farmington State Teachers College installed a sprinkler system in its buildings, and had such system connected to the public water supply system operated by the Farmington Water Company. The water company answers to the jurisdiction of the Public Utilities Commission. The Public Utilities Commission has promulgated General Order #17 which states, inter alia:

" \* \* \* that all water utilities henceforth in the construction of Private Fire Protection Service lines retain ownership of so much of said line as within the highway limits; and further that said utilities, shall forthwith initiate proceedings, where necessary, to acquire so much of existing private fire protection line as within said highway limits; and further that upon acquisition said utilities shall without reimbursement, maintain, repair and replace said lines as may from time to time be required."

The State Teachers Colleges are controlled by the Maine State Board of Education. R. S., c. 41, §§ 223 - 230.

**QUESTION:**

1. Does the State hold title to the service line running beyond the college property line, i.e., under the public highway, or does the State's ownership stop at said property line?

2. If the State owns such service line, what sort of conveyance is necessary to transfer title to the water company, i.e., a bill of sale or a formal deed?

3. Is the approval of the Governor and Council, on the basis of a Council Order, necessary to convey any interest the State may have in such lines; and, if so, what is the statutory provision requiring such order?

ANSWERS:

1. Under the stated facts, the State holds title to the service line running beneath the public way, to the point where such line joins that owned by the water company.

2. A bill of sale would be the proper instrument conveying title to the section of pipe running beneath the public way.

3. A Council Order is necessary pursuant to the provisions of R. S., c. 41, § 227.

REASON:

The entire sprinkler system is owned by the State by reason of the purchase of same by the college. Thus, that portion of the system running from the college's property line to the company's water main, i.e., that portion of pipe lying beneath the public way, is owned by the State. According to the given facts, no transfer of title has been made by the college.

Under the given facts, the fire protection line may be regarded as a personal fixture which has not lost its identity as personalty by reason of being inserted into realty.

According to R. S., c. 41, § 227, the consent of the Governor and Council should be secured concerning such conveyance.

\* \* \* and shall have authority, by and with the consent of the Governor and Council, to dispose of and acquire property for the improvement of the plants and grounds. \* \* \*

You will note that the reference section denominates the Maine State Board of Education as the body authorized to make such conveyance.

We attach a carbon copy of our letter this day submitted to the Farmington Water Company concerning such conveyance. We will be in touch with your department concerning the final action in this matter.

---

John W. Benoit

JWB/eh