

# MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

**ATTORNEY GENERAL**

for the calender years

1965 - 1966

Town B to a parochial school for fees paid by the parents \* \* \*.” In our December 14 opinion, we stated that this was an area where the State should have no concern.

Your memorandum asks in conclusion: “What is the answer which may be given a citizen and a taxpayer in Town A when he says his tax money is being used to convey pupils for Town B and other non-resident pupils to a private school?” Of course, you are not required in law to answer such a question; and to do so would usurp the function of town counsel and the courts.

In conclusion, it is somewhat unrealistic to say that a town may utilize its school buses in order to transport members of the school body to a point outside the town limits (even to a point outside the state) in order that certain members of the student body take part in an athletic event; and, at the same time, saying that these same school buses cannot be utilized by the town for the purpose of performing the terms of a contract which call for such town to both educate and transport the students residing in the adjacent town. If a taxpayer feels himself aggrieved by such circumstances, he should not receive legal advice from the Department of Education.

JOHN W. BENOIT  
Assistant Attorney General

March 31, 1965  
Water Improvement Commission

R. S. Macdonald, Chief Engineer

Licensing of the Vahlsing Plant (sugar beet factory)

*FACTS:*

A new sugar beet processing plant is to be constructed on Prestile Stream. There are two possibilities; (1) the factory may connect into and discharge through the present pipe of a potato processing plant or, (2) it may discharge through its own pipe some 300 feet from the point of discharge of the potato processing plant.

*QUESTION:*

Does the sugar beet plant need a license from the Water Improvement Commission in either instance?

*ANSWER:*

Yes.

*REASON:*

The licensing of industries to pollute waters is covered by 38 M.R.S.A., sec. 413.

“No person, firm, corporation or municipality or agency thereof shall discharge into any stream, river, pond, lake or other body of water or watercourse or any tidal waters, whether classified or unclassified, any waste, refuse or effluent from any manufacturing, processing or industrial plant or establishment or any sewage *so as to constitute a new source of pollution* to said waters without first obtaining a license therefor from the commission.” (Emphasis supplied)

The question which must be answered is whether or not the discharge from the sugar beet factory does "constitute a new source of pollution" to Prestile Stream.

Attached hereto are copies of two opinions on this subject previously given by this office. The first opinion is by Ralph W. Farris, Attorney General, dated February 25, 1949. In all three instances cited it was ruled to be a new source of pollution and would require a license.

The second opinion was dated August 30, 1962 by Thomas W. Tavenner, Assistant Attorney General. He ruled that a laundromat dumping its waste into a sewer did not require a license.

The distinction between the two opinions is readily understandable. They are not in conflict. The facts given in the instant case would be within the interpretation of a "new source of pollution" set forth in the 1949 opinion.

GEORGE C. WEST  
Deputy Attorney General

April 27, 1965  
Education

Kermit S. Nickerson, Deputy Commissioner

Transfer of Realty to School Administrative District by a Member Administrative Unit;  
Reversion Clause.

*FACTS:*

Recently a school administrative district was organized, and the participating administrative units are due to convey school property to the district pursuant to 20 M.R.S.A. §217.

"When the territory of a school district, community school district or a municipality falls within a School Administrative District which has been issued its certificate of organization and has assumed the management and control of the operation of the public schools within the School Administrative District, the school directors shall determine what school property and buildings owned by any school district, community school district or municipality within the School Administrative District shall be necessary to carry on the functions of the School Administrative District and shall request in writing that the trustees of any school district, community school district or the municipal officers of any municipality within the School Administrative District convey the title to such school property and buildings to said School Administrative District, and the trustees of a school district, community school district or the municipal officers of any municipality shall make such conveyance notwithstanding any other provision in the charter of said school district, community school district, municipality or other provisions of law." 20 M.R.S.A. §217.

One of the district's member units intends to convey its school property to the district with the proviso that a particular school site and buildings will revert to the municipality in the event that the property is no longer used for school purposes.

*QUESTION:*

Whether such a proviso may be made in the reference transfer?