

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calender years

1965 - 1966

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?

ANSWER:

No.

REASON:

The reference provision of the public school laws, 20 M.R.S.A. §217, does not expressly answer the question presented for determination. The statute decrees only that a request be made for conveyance of school property; and that, thereupon, the conveyance shall be made.

It is noted that 20 M.R.S.A. §222 prescribes procedure for dissolution of school administrative districts. The section refers to a 'dissolution agreement'. It is the duty of the State Board of Education to prepare such an agreement for submission to the voters of the district. The Legislature has granted to the State Board of Education full authority to prepare said agreement. If a town has conveyed its school property to a school administrative district upon condition that such property shall revert to the municipality in the event that the property is no longer used for school purposes, then such school property is being returned pursuant to the instrument of conveyance rather than the dissolution agreement. The question which would then arise would be: Whether the dissolution agreement could legally recognize this situation so as to maintain the equities between the participating units.

In 20 M.R.S.A. §307, school directors of a school administrative district are authorized to dispose of real property by selling such property and building "to the town where the same is located at a mutually acceptable price without advertising; *provided the school administrative district had assumed no indebtedness or lease obligation on account of said property.*" (Our emphasis) Assume that the desired conveyance is made in the instant case and assume, also, that the district accedes to the indebtedness regarding the property. It seems somewhat inconsistent to say that such property may someday revert to the town wherein the property is located, by operation of law, but that the same property may not be transferred to such town at a mutually agreeable price.

The member municipalities in a school administrative district should transfer whatever title they possess in the school property to the district as is provided by the reference statute.

JOHN W. BENOIT
Assistant Attorney General

April 7, 1965
Maine State Police

Major Parker Hennessey, Deputy Chief

Children Running Off From the Training Centers

You have asked the opinion of this office relative to the authority of the State Police to apprehend and return runaways from Juvenile Training Centers.

The portion of the Statute determinative of the answer to your question appears in brackets below and was not discovered by this office until after talking with you by