

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT
OF THE
ATTORNEY GENERAL

For the Years
1967 through 1972

the laws of this State is not permitted to transact.”

The subject corporation claims that the loaning of money is a business permitted domestic corporations by the laws of the State. With such a statement we cannot disagree. See 9 M.R.S.A. § 991 et seq. (trust companies); § 3201 et seq. (loan companies).

However, we must construe § 593 in connection with and in harmonious accord with § §591 and 592. Section 593 cannot stand alone. It would not make sense to interpret the language literally and contrary to the two preceding sections. These three sections set up an arranged plan whereby corporations organized in other States may do business in Maine and by appointment of an attorney for service of process be subjected to the jurisdiction of the Maine courts. Certain corporations, as listed in § 591, are not granted this privilege. Among these are banks.

We must, therefore, interpret § 593 as referring only to those types of corporations that are specifically exempted by § 591 from filing with the Secretary of State.

GEORGE C. WEST
Deputy Attorney General

August 18, 1970
Education

Kermit S. Nickerson, Commissioner

SYLLABUS:

Requirement of federal law that Department of Education supervise the administration of State plan for education of handicapped children creates limitation restricting transfer of federally purchased equipment and materials from State College to University of Maine under P. & S. L. 1967, Chapter 229, § 4-C.

FACTS:

Under Title VI-A, Elementary and Secondary Education Act (20 USCA §§871 – 877) the Department of Education is the State agency for administration of that Title concerned with special education for handicapped children. The federal law requires that the Department of Education file with the federal agency a State Plan under which it will operate. The Department of Education did this and the plan has been approved by the federal agency.

Equipment, material and supplies may be purchased with the federal funds granted to the State. Title to such property must remain in a public agency.

“The (State) plan must provide satisfactory assurance that the control of funds provided under this part, and title to property derived therefrom, shall be in a public agency for the uses and purposes provided in this part, and that a public agency will administer such funds and property.” 20 USCA § 874 (c).

The former Farmington State College, now the University of Maine at Farmington, was designated by the State Department of Education as a Special Education Instructional Materials Center. At that time, the State Board of Education supervised Farmington State College. Equipment, materials and supplies were purchased by the State Department of Education with Federal funds. The Special Education Instructional Materials Center could well be said to be a type of warehouse and distribution center or a library for the storage and loaning out of materials to be used in the education of

handicapped children.

Private and Special Laws 1967, Chapter 229, created the new University of Maine, by which this state college became a part thereof. On May 26, 1968, “. . . all of the assets, tangible or intangible, real, personal and mixed, of, or used in connection with . . . Farmington State College . . . except such as are in trust or are subject to limitations purporting to restrict their transferability or assignability, are transferred and assigned to the university.” Section 4-C.

QUESTION:

Did ownership of the equipment, materials and supplies purchased for the Special Education Instructional Materials Center at Farmington State College with federal funds and used in the education of handicapped children pass to the University of Maine by virtue of P. & S. L. 1967, Chapter 229, §4-C?

ANSWER:

No.

REASON:

There is another provision of 20 USCA which must be considered. Section 874 (f) states:

“The (State) plan must provide that the State educational agency will be the sole agency for administering or *supervising* the administration of the plan.” (Emphasis supplied.)

At the time the equipment, material and supplies were purchased, Farmington State College was under the supervision of the Department of Education. The federal law provides, in substance, that the Department of Education must supervise the plan, which includes the Special Education Instructional Materials Center. It no longer can supervise the Special Education Instructional Materials Center, since Farmington State College became a part of the University of Maine. The requirement of supervision must be considered as a “limitation (s) purporting to restrict their transferability or assignability” so that they were not transferred to the university by P. & S. L. 1967, Chapter 229, §4-C.

GEORGE C. WEST
Deputy Attorney General

August 24, 1970
Planning & Dev. Div. – BPI

Richard G. Bachelder, Sup^v'g Eng.

Building at SMVTI

SYLLABUS:

The underlying intent of a bond issue will govern the interpretation of the language.