

# 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)

STATE OF MAINE



REPORT

OF THE

ATTORNEY GENERAL



for the calendar years

1941--1942

April 2, 1943

John A. Retter,  
Lt.-Col., Corps of Engineers  
Executive Assistant  
Office of Division Engineer  
New England Division  
Boston, Massachusetts.

*In re 601.1, Presque Isle, Maine Your reference DRE 5*

Dear Sir:—

The City of Presque Isle, Maine, and the Town of Houlton, Maine, have ample authority under Public Laws of Maine, 1941, Chapter 173 and Public Laws of Maine, 1931, Chapter 213 to acquire title to the airports which they have conveyed to the United States of America by deeds, copies of which you have sent to this office.

The Legislature of Maine has passed and the Governor has signed a bill, being Legislative Document #824, two copies of which I am enclosing herewith. By Section 1 of said Act, as you will see, cities and towns are authorized to sell airports as in the instant case, while by Section 2, all conveyances of airport lands by cities and towns to the United States for military purposes before this Act takes effect are declared to be valid.

This Act will not take effect until ninety days after the Legislature adjourns. We expect that the Legislature will adjourn on April 8th or 9th, so this Act will take effect about July 7th or 8th.

It was our wish to pass an emergency act which would take effect as soon as signed by the Governor, but under the State Constitution, emergency acts cannot be passed by the legislature if they provide for a sale, lease or rental of land for a period of more than five years. When the Act takes effect, title will immediately vest in the United States by reason of the deed from Presque Isle dated August 12, 1941 and the deed from Houlton dated August 13, 1941.

Very truly yours,

FRANK I. COWAN  
Attorney General

April 3, 1943

To:  
Harry V. Gilson, Commissioner

Education

From:  
John G. Marshall, Assistant

Attorney General

On April 1, 1943, you inquired if a town is legally liable to pay the board of students, where no school is provided by the school committee in that town. On the facts presented, the answer is in the negative.

In Chapter 19, Section 78, there is a provision for school committees to agree to this, which would necessarily require a voluntary contract by the several parties, and under Section 2 of the same chapter, the statute reads that the school committee "may authorize the superintendent of schools to pay the board of students" under the circumstances set forth therein. The language is such that it is mandatory or compulsory upon the committee only if it sees fit to make the authorization.

It is true that the public school laws require a town to make provision for the maintenance of its schools for not less than 32 weeks annually. But the only penalty is the loss of State school moneys. Under our system of government, a great deal of control of municipal affairs is necessarily left with the individual in that municipality. If a citizen of a town should feel that his local government is not functioning according to law, and if he can prove that, he has a remedy which is not available to outside administrative bodies, unless express provision is made therefor by statute. There is no provision for such action in this case.

JOHN G. MARSHALL

Assistant Attorney General

April 6, 1943

To:

David H. Stevens, Assessor

Assessor

From:

John G. Marshall, Assistant

Attorney General

*Supplemental Tax on York Utilities Co.*

*History*

In 1903, the Atlantic Shore Line Railway was created by Chapter 175 of the Private and Special Laws. Amendments to the charter were made in 1905, P. & S., Chapter 241; in 1907, P. & S., Chapter 303; in 1907, P. & S., Chapter 439.

In 1911, P. & S., Chapter 39, the Act cites that certain individuals had purchased the assets of the Atlantic Shore Line Railway under order of sale by the United States Circuit Court and its decree pursuant thereto. The Act ratifies the sale and recites that the bonds, as described in the Act, shall be a binding obligation of the Atlantic Shore Railway which was the name of the corporation apparently organized under the General Laws for the purchase of the assets of the Atlantic Shore Line Railway. The Act ratifies and makes valid all of these acts by the newly created corporation. The Act further recites the right of the new corporation to enjoy all of the rights, franchises and privileges of the Atlantic Shore Line Railway.

On January 18, 1923, the holders of the refunding mortgage bonds of the Atlantic Shore Railway having foreclosed the mortgage securing the same, the United States District Court of Maine ordered a sale to the several named individual purchasers of all the assets of