

# MAINE STATE LEGISLATURE

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STATE OF MAINE

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REPORT

OF THE

ATTORNEY GENERAL

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for the calendar years

1943--1944

The cases that you speak of as being dismissed came up in the Bangor Municipal Court, so I am told. It is possible, of course, that the Law Court might sustain the opinion of the judge of that court. If so, it would mean that many statutes on our books have been misinterpreted for many years.

Sincerely yours,

FRANK I. COWAN  
Attorney-General

December 1, 1943

Frederick B. Dodd, Esq.  
84 Harlow Street  
Bangor, Maine

*Re: Town of Topsfield Deposit of Ministerial School Fund in Eastern  
Trust and Banking Company*

Dear Fred,

I have before me a copy of an opinion given by Deputy Attorney-General John G. Marshall under date of November 15, 1943; a copy of a letter to Bill Newman from Dave Stevens bearing date November 16th; and a copy of a letter from yourself to Stevens, bearing date November 29th. Chapter 78, Section 2, of the Private and Special Laws of 1939 is not so clear as we wish it were. However, it is drawn on a pattern apparently designed some years ago and has been interpreted by this department in the same way that Mr. Marshall has interpreted it.

Other statutes having to do with "deorganized" towns and with the Emergency Municipal Finance Board have been interpreted as setting the State up in the capacity of trustee of any public funds which have been in the custody or under the authority of the officials of towns that have become defunct. (Rightly or wrongly, we have felt that we should interpret the deorganized town statutes in connection with the Emergency Municipal Board statutes, inasmuch as they all apply to municipalities in bad financial circumstances, and some of the more recent acts of the legislature have not made a clear distinction.)

The problem we have in connection with Topsfield is similar to one that has arisen in regard to other places. Two years ago I instructed the State to return to a new municipality the school funds that had been taken over. At that time I drew a line, making it as clear as I could, and established a precedent of the State holding the funds as trustee and when the necessity of so holding had ceased, turning the funds back to the municipality.

The ministerial school funds were, as a matter of fact, I believe developed out of "amounts raised by said town for school purposes or out of amounts paid by the state for school purposes," so that they do, it seems to me come within the provisions of Chapter 78, Section 2.

If you feel free to give me any further comment on this question, I shall be glad to have it.

Sincerely yours,

FRANK I. COWAN  
Attorney-General