

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1945-1946

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December 23, 1946

To Harry V. Gilson, Commissioner of Education

Re: Authority of Commissioner to establish maximum pupil enrollment per teacher

I have your memo of December 13th relating to the above entitled subject matter. You state that various conditions, including an increased birth rate, a shortage of teachers and increased costs of maintenance, are causing various communities throughout the State to maintain badly overcrowded classes, both from the standpoint of classroom space and the number of pupils under the supervision of one teacher, 70 to 80 pupils, in some cases, being served by one teacher in a classroom. Numerous complaints have been received from parents whose children are attending schools under such conditions.

In the second paragraph of your said memo you call my attention to paragraph XII, Section 3 of Chapter 37, which provides that it shall be the Commissioner's duty "to cause an inspection to be made and to report to the school committee his findings and recommendations whenever the superintending school committee or the superintendent of schools of any town, or any 3 citizens thereof, shall petition him to make an inspection of the schools of said town; and to prepare a list of standards of buildings, equipment, organization, and instruction and to give such ratings upon such list of standards to any schools that are inspected under the provisions of this paragraph as their general condition, equipment, and grade of efficiency may entitle them."

On the basis of the statement of facts contained in paragraph one and the law cited in paragraph two of your said memo, you ask whether it is correct to assume that the Commissioner of Education may prescribe the maximum per pupil-teacher ratio which the schools of a town shall not exceed without risking the forfeiture of State school moneys.

In answer to your query I will say that it is my opinion that under the law quoted in paragraph 3, the Commissioner of Education, if he finds upon inspection that the instruction per pupil is insufficient, may prescribe the maximum per pupil-teacher ratio which the schools of a town shall not exceed without risking the forfeiture of State school moneys.

RALPH W. FARRIS
Attorney General

December 23, 1946

To Harry V. Gilson, Commissioner of Education

Re: Paragraph 2, Section 204, Chapter 37, R. S. 1944

I have your memo of December 13th relating to the above entitled subject matter, in which you state that when amendments to Section 204 of Chapter 37 were prepared for consideration by the 1945 legislature, to permit increased subsidies to towns and the establishment of a minimum salary of \$1000, a specific provision was included to make the in-

creased subsidy available to towns which, during the previous year, met the requirements on the minimum salary then in effect. You state that this provision (Chapter 151, P. L. 1945) reads as follows: "The distribution of state school funds to towns on account of teaching positions in December, 1945, shall be based upon the minimum program as established by section 204;" and you further state that such provision was necessary for upwards of 40% of the communities of the State, whose local abilities would not permit an increase in the minimum salaries of teachers from \$720 to \$1000 until additional State aid under the provisions of this section was made available. You state in paragraph 2 of your memo: "Unfortunately, however, the sponsor of this measure added to this statement the provision, 'provided, however, that no town shall be apportioned more than \$100 for any teaching position for which the town pays an annual salary of less than \$1000,' thus making this sentence in the law utterly contradictory, since it required in the first part a minimum of \$720 and in the second part a minimum of \$1000. This action on the part of Representative McKinnon resulted from his failure to understand that the \$1000 minimum salary requirement was insured in a previous part of the paragraph."

You state in your third paragraph that when this ambiguity was discovered, a conference was held in my office, attended by Representative McKinnon and Senator Noyes of the legislature; Mr. Ladd, Mr. Kenney and yourself of the Department of Education; Mr. Breitbard and myself deciding, on the grounds that it was the obvious intent of the legislature, that increased subsidies should be made available in 1945 on a basis of the provisions of Section 204, in effect as of July 1st of that year; and I instructed you orally to proceed with the allocation of the subsidy on that basis.

On the statement of facts contained in the foregoing paragraphs you state that the State Auditor requested you to secure a memorandum from the Attorney General confirming the interpretation given at the conference above described.

I recall the conference in this office in the closing days of the 92nd Legislature and that it was agreed at that time that you would be justified in proceeding with the allocation of State subsidies in December of 1945 on the basis of this amendment in Chapter 151 of the Public Laws of 1945, as it was agreed that that was the intent of the legislature, by the sponsors of the bill providing for the amendment.

RALPH W. FARRIS
Attorney General

December 23, 1946

To David H. Stevens, State Assessor

I received your memo of December 17th relating to the taxation of telephone and telegraph companies under the provisions of Sections 120 and 126 of Chapter 14, R. S. 1944, which provide that the tax base is