

MAINE STATE LEGISLATURE

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May 21, 1947

To Harland A. Ladd, Commissioner of Education

On May 7th, during the session of the legislature, you sent a memo to my office which I received May 9th, relating to the Lisbon survey. It may be that this advice that I am now giving you is a little late.

You state that Superintendent Elmer O. Small of Union No. 50 has referred a question to you for answer, on which you need my opinion, and you give the following facts:

"Some months ago the superintendent school committee of Lisbon voted to employ a specialist to make a survey of the school facilities of the town and to make recommendations for future policies and developments. The committee planned to pay for one-half of the cost of this service with funds which had been appropriated in the so-called 'Repairs Account.' The other half was to be paid by the state under the provisions of Chapter 353, P. L. 1945.

"The survey has been made and proper vouchers presented for payment. The selectmen of Lisbon have refused to process the voucher on the grounds that this expenditure from the repairs account was illegal. The superintending school committee takes the position, according to Mr. Small, that its action is neither illegal nor inappropriate. It maintains that the expenditure was authorized in good faith because it believed that the committee should establish a long-range policy with respect to pending major repairs and possible construction. Admittedly, the people who made the appropriation did not contemplate an expenditure of this sort, but, rather, anticipated the use of the money for labor, paint, hardware materials, etc. On the other hand, expenditure for planning is certainly a commonly approved business procedure. Moreover, this particular expenditure was in the interest of wise administration of this and future appropriations for construction and repairs."

You request my opinion on this statement of facts, but your memo does not state who appropriated the funds of the repair account. I presume it was done at a legal town meeting held for this purpose. "Every town shall raise and expend, annually, for the support of public schools therein, exclusive of the income of any corporate school fund, or of any grant from the revenue or fund from the state. . . not less than 80% for each inhabitant, according to the census by which representatives to the legislature were last apportioned." However, there is no authority in the statute for the superintending school committee to raise money to employ a specialist to make a survey of the school facilities of the town without vote of the inhabitants thereof. You state that the other half of the repairs account was to be paid by the State under the provisions of Chapter 353, P. L. 1945.

I have ruled that no money can be taken from the Permanent School Fund, and the amendment in Chapter 353, P. L. 1945, was an error. If you will look at Section 15 of Chapter 350, P. L. 1945, you will find this amendment, "Income from the permanent school fund shall be credited to the general fund of the state."

Under Chapter 353, money was paid over to the Forest Commissioner, and I ruled that it should be returned to the Treasurer of State, which has been done. The Forest Commissioner advised me that the amendatory language of Section 195 of Chapter 37 of the Revised Statutes was intended to apply to another section, relating to the sale of stumpage from public reserved lots.

I called your office today, but you were at South Paris holding a meeting. I cannot explain this fully to you without a personal conference. You will have to explain to me somewhat in detail how this repair account came into existence, and how you expect to pay half of it out of the funds provided in Chapter 353, P. L. 2945.

Ralph W. Farris
Attorney General

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