

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

for the calendar years  
**1951 - 1954**

April 23, 1951

To Fred M. Berry, State Auditor  
Re: Chapter 328, P. L. 1947

Under date of April 13, 1951, you addressed the following memorandum to this office:

"Your opinion is solicited as concerns the following statute, An Act Relating to Unorganized Townships Fund. Chapter 328, Public Laws of 1947, reads in part,

"Upon the first fund to be known as the unorganized townships fund, the state shall allow interest annually at 4%. The income from said fund shall be allocated as follows:

- I. \$5,000 allocated annually for the use of forest commissioner in managing and improving the growth on public reserved lots; and
- II. the balance then remaining shall be added to the school equalization fund.'

"The questions are:

1. Do the words in part II 'the balance then remaining' refer to the \$5,000 in part I or do they refer to the balance remaining in the income account after the \$5,000 has been deducted for forestry purposes?
2. If \$5,000 is made available to the Forestry Commissioner for the specific purposes stated in the act, and all of it is not spent in the current year, would the balance be carried forward for use in subsequent years or would it be added to the school equalization fund?"

In answer to your first question, it is our opinion that the words, "the balance then remaining," as used in paragraph II refer to the balance remaining in the income account after \$5,000 has been allocated for the use of the Forestry Commissioner.

In answer to your second question, it is our opinion that if the \$5,000 made available annually to the Forest Commissioner for the purpose of managing and improving the growth on the public reserved lots is not used for that purpose, any balance remaining in the \$5,000 account at the end of the fiscal year should be added to the school equalization fund.

JOHN S. S. FESSENDEN  
Deputy Attorney General

April 26, 1951

To Ermo H. Scott, Deputy Commissioner of Education  
Re: Teachers' Contracts — P. L. 1951, Chapter 203

Your memo of April 25, 1951, makes inquiry as follows:

- "1. To what extent does the Act affect teacher contracts signed between the current date and the date on which the Act becomes effective?"

- “2. To what extent is the probationary period of not more than three years met by a teacher already in the employ of a municipality previous to the passage of the Act?
- “3. Assuming that a teacher has completed the probationary period but wishes to be contracted for only one year, can the employing agency issue such a contract for this less-than-two year term?”

The opinion of this office is in this manner:

1. Teachers' contracts entered into before the Act becomes effective are not concerned in any way. The Act will apply only to teachers' contracts made after the Act becomes effective. Previously made contracts may be carried out to their proper conclusion after as well as before the Act becomes effective.
2. When this Act becomes effective, the probationary period for any contracting teachers should be regarded as met to the extent of all teaching experience had both before and after the Act.
3. No. The provisions of this Act apply to all teachers' contracts and are to be read into them in all cases, whether there be a written contract which follows the Act or not, and likewise if the contract be oral. The teacher-contract may not effectively provide any arrangement which is contrary to this statute, which provides that after the probationary period, subsequent contracts shall be for *not less than two years*, etc.

NEAL A. DONAHUE  
Assistant Attorney General

April 27, 1951

To William O. Bailey, Deputy Commissioner of Education  
Re: Schoolhouse plans (Bingham)

Your memo of April 23, 1951, makes inquiry as follows:

“A School District was established for the Town of Bingham by the 94th Legislature. The trustees of that district immediately built a four-room elementary school building. They are now engaged in adding a second unit which consists of four more classrooms and a gymnasium. The superintending school committee gave verbal approval to the plans as originally submitted to this Department and the Department of Health and Welfare.

“Now the trustees have decided to change the plans and make the gymnasium considerably smaller. The superintending school committee does not approve of this change on the grounds that the resulting building will not adequately house the educational program that they propose to offer.

“1. Is it necessary that changes in the plans be approved by the State Department of Education and State Department of Health and Welfare?”

“2. When a town votes to accept a school district offered by act of the Legislature, is it in effect voting to build a school house as referred to in Section 19 of Chapter 37?”

“Note. (See sections 19 and 21 of Chapter 37).”

Answer to Question 1. Yes. When changes are proposed to be made in the plans which have been approved by the State Department of Education and