

MAINE STATE LEGISLATURE

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No

November 28, 1951

To Harland A. Ladd, Commissioner of Education
Re: Maine School Building Authority

We have your memo of November 5, 1951, in which you ask certain questions with relation to the Maine School Building Authority. We quote the following questions:

"(1) For functional reasons the Authority wishes to have the offices of Secretary and Treasurer filled by different individuals. Would such a plan conform with the language and intent of the law?"

The answer to Question #1 is, Yes. The offices of secretary and treasurer may be filled by different individuals. The Act merely says:

"The Authority shall elect one of its members as vice chairman, and shall also elect a secretary and treasurer who need not be a member of the Authority, to serve at the pleasure of the Authority."

We do not believe that this language shows an intention that the offices of secretary and treasurer shall be filled by one and the same individual.

"(2) Is there any way that the Senate Chairman of the Committee on Education, who is an ex officio member of the Authority, may receive a per diem payment of \$10 for services actually rendered, either from the appropriation for administration of (a) the Authority or (b) the State Department of Education?"

The answer to Question #2 is, No. We refer you to Section 10, Article IV, Part Third, Constitution of Maine, which provides that no Senator or Representative shall, during the term for which he shall have been elected, be appointed to any civil office of profit under this State which shall have been created or the emoluments of which increased during such term, except such offices as may be filled by election by the people.

The Senate Chairman on the Committee on Education was of course a member of the Senate during whose term the Maine School Building Authority was created. While we feel that he may justifiably be paid expenses, we are of the opinion that he is not eligible to receive per diem payment for services rendered.

"(3) May the Maine School Building Authority contract with two or more towns acting cooperatively in the construction of a school under the provisions of Chapter 178 of the Public Laws of 1951?"

The answer to Question #3 is, Yes. Chapter 178 of the Public Laws of 1951 provides:

"Two or more towns cooperatively may acquire property and construct, extend, enlarge, repair and maintain school projects on a common site when the plan for locating, owning, operating, administering and financing said project has been approved by each participating town and by the state board of education."

Section 218, as enacted by Chapter 405, P.L. 1951, provides that contracts may be made between the Authority and any town or towns or communitied school district, such contract or agreement not to be valid unless first approved by the inhabitants of the town or towns involved, either individually or as members of a community school district.

It is therefore our opinion that in the face of such clear statements the Maine School Building Authority may contract with two or more towns acting cooperatively in the construction of a school under the provisions of Chapters 178 and 405 of the Public Laws of 1951.

James G. Frost
Assistant Attorney General

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