

MAINE STATE LEGISLATURE

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March 22, 1956

To Kermit S. Nickerson, Commissioner of Education
Re: Chebeague Island High School

. . . . The facts appear to be as follows. The school last year was operated with an average daily attendance of only six pupils and that the school committee did not make recommendation that the school be maintained. The town voted, 163 yes, to 160, no, to continue the Chebeague Island high school.

Section 14 of Chapter 41 is the law by which this state of facts should be governed, more particularly that section which provides:

"Any public school failing to maintain an average attendance for any school year of at least 8 pupils shall be and is suspended, unless the town in which said school is located shall, by vote at the annual meeting or at a meeting called for that purpose, after the said committee shall have made a written recommendation to that effect, instruct its superintending school committee to maintain said school."

It appears from this law that when the average daily attendance for a school year falls below 8 pupils, the school is suspended by operation of law. The town may re-open the school under this law, provided, however, that the school committee shall make a written recommendation to that effect. This we would consider a condition precedent to a vote of the town. Not having had that condition in existence, the town had no authority to vote. It would appear, therefore, that if the school is maintained contrary to law, subsidy payments therefor could not be paid for the maintenance of that school.

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Assistant Attorney General

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