

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1957 - 1958

It can then be seen that the fund for payment of survivors' benefits does not at all contemplate members who are not presently working, but only such members as are contributing and who have an annual earnable compensation.

For these reasons we therefore hold that the law does not protect those persons who severed service prior to July 1, 1957.

JAMES GLYNN FROST
Deputy Attorney General

July 21, 1958

To Roland H. Cobb, Commissioner of Inland Fisheries and Game

Re: Swan Island

This is in reply to your recent memo in which you pointed out that Federal funds under the Pittman-Robertson Act can be expended only in the event such funds accrue to the dedicated revenue of your department, and that because of our opinion that the funds realized by the sale of Swan Island must accrue to the general fund of the State the Federal Government may refuse to follow through on the purchase.

You inquire if legislative action is indicated and, if so, how the bill should be worded.

If the Legislature had desired that the proceeds of sale of land should accrue to the department's account, then it could easily have so stated, as it did in the case of sale of hay, timber and Christmas trees.

In the case of hay, timber, etc., the Legislature provided (Sec. 17, Chapter 37) that the proceeds from their sale shall be used for maintenance of the game management areas.

While it is not proper for us to recommend legislation, we would suggest that if the Department of Inland Fisheries and Game wishes that proceeds from the sale of land under the provisions of Section 8 accrue to the department, then legislation would be necessary. Clear words could be used, as in Section 17, indicating the desired disposition of such funds.

JAMES GLYNN FROST
Deputy Attorney General

July 23, 1958

To David H. Stevens, Chairman, State Highway Commission

Re: Temporary Loans

You have requested my opinion as to whether the State can use the temporary-loan provision to borrow \$3,500,000 in September 1958 and repay the loan in May of 1959.

The answer is, "Yes."

Chapter 173 of P&SL, 1957, allocates \$6,807,000 to the highway fund for 1957-58 from the sale of bonds for highway construction.

Section 132 of Chapter 28, R. S., provides that the Governor and Council can transfer money from one account in the General Highway Fund to another.

If, in September 1958, the \$3,500,000 is deemed necessary by the Governor and Council, then, under the provisions of Section 30 of Chapter 18, as the loan of \$3,500,000 does not exceed 1/3 of the highway revenues received during 1956-57, they may negotiate a loan for that amount, provided it must be paid back by June 30, 1959.

This amount is credited to the general highway fund and transferred to the Bond Issue account. On receipt of the Bond Issue funds, *during that fiscal year*, the \$3,500,000 is transferred to the General Highway Fund and the loan paid from that fund.

The highway revenues referred to in Section 30 do not have to be revenues allocated to any specific type of expenditure. The intent of the borrowing provision was to give the State Highway Commission the right to anticipate 1/3 of its general revenue in order to expedite work during the year.

L. SMITH DUNNACK
Assistant Attorney General

July 31, 1958

To Dr. Warren G. Hill, Commissioner of Education

Re: Re-consideration of action at a town meeting

I have your request for an opinion concerning the proposition that the Town of Perham plans to insert an article in its warrant at the next town meeting scheduled for the election of school directors. The proposed article will be to re-consider and rescind action taken at a legally called town meeting held on June 21, 1958. At the meeting of June 21, 1958, the Town of Perham voted to join the towns of Castle Hill, Chapman, Mapleton, Wade, and Washburn to form a school administrative district. The Town of Perham at the June 21, 1958, meeting approved of the allocation of school directors to each town comprising the district and to authorize the district to assume full responsibility for amortizing certain school indebtedness outstanding in the municipalities and school district comprising the school administrative district. All of the other towns voted to join said school administrative district. The Maine School District Commission has records of returns of each of the towns comprising the said school administrative district on file and on July 17, 1958, made a finding that all of the steps in the formation of a school administrative district comprising the aforementioned towns were in order. Such finding and order were recorded in the School District Commission records and the official title was assigned to the school administrative district being School Administrative District #2. A certificate of organization was issued on July 17, 1958.

It is my opinion that any action taken at a future meeting by any of the component towns to rescind a vote which created the district would be void. The general rule as stated in *Bullard v. Allen*, 124 Me. 251 at page 26 is that a town ". . . may take action in one direction today and another tomorrow provided it does not impair intervening rights."

Parker v. Titcomb, 82 Me. 180, stating the above-mentioned general rule further states:

"A town may reconsider its action at the same meeting or at a subsequent meeting if seasonably done. That is if the action of a town