

MAINE STATE LEGISLATURE

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December 1, 1958

Mr. Wendell Phillips
Presque Isle, Maine

Dear Wendell:

I have your letter of November 17, 1958, concerning the question of turning over municipal funds to School Administrative District No. 2. After our telephone conversation of the 26th, I feel that I have a better understanding of the problem.

As you have pointed out Section 111-N provides that;

" . . . on the date so set the balance then remaining in school accounts of the municipalities within the School Administrative District shall become the property of the School Administrative District. . . ."

The money in this school account is the money for operating the schools in the municipality and the schools under the jurisdiction of your former Community School District. I am purposely omitting reference to sinking funds since they are apparently not involved in the present problem.

It appears that the money in question is in the school account, and I am of the opinion that the School Administrative District is entitled to it under the provisions of Section 111-N for the following reasons: A town has no element of sovereignty, but is a creature of the legislature and as such must abide by the general laws of the state relating to its powers and duties. Sections 12 through 23 provide for municipal finances and for the purposes for which money may be raised and expended. Section 17 refers specifically to the reserve fund which we discussed. Hooper v. Emery, 14 Me. 375, stands for the

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proposition that money once collected cannot be appropriated to a different purpose than it has been collected. Please note that Section 240, Chapter 41 provides that:

"the unexpended balance of all moneys raised by administrative units or received from the State for general - purpose aid shall be forwarded and credited to the same school resources for the ensuing year."

I hope this rough outline of my reasoning will be of some help to you.

I don't have sufficient time at this writing to give you my thoughts on your other problem, but I shall write to you concerning that later in the week.

Very truly yours,

George A. Nathan
Assistant Attorney General

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