

MAINE STATE LEGISLATURE

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June 19, 1959

Kernit Nickerson, Deputy Comm'r

Education

George A. Wathen, Assistant

Attorney General

Teacher's Contracts

You have requested an opinion regarding the following fact situation:

A teacher was employed as a probationary teacher for a period of three years on annual contracts. At the end of the three-year period, she was elected for a one-year period and both parties executed a written contract. Said teacher was given written notice of termination at least six months prior to the termination of the contract.

Was the one-year contract a valid contract?

The relationship between school authorities and a teacher is created by contract. This contractual relationship still exists after the probationary period. The authority on the part of the school authorities is entirely statutory for the employment of teachers. The extent of the authority to enter into a contract in this case is governed by Chapter 41 of the Revised Statutes of 1954.

See Chapter 41, Section 87, paragraph V, which reads in part as follows:

"Except that after a probationary period of not to exceed 3 years, subsequent contracts of duly certified teachers shall be for not less than 2 years, and furthermore, that unless a duly certified teacher receives written notice to the contrary at least 6 months before the terminal date of the contract, the contract shall be extended automatically for 1 year and similarly in subsequent years, although the right to an extension for a longer period of time through a new contract is specifically reserved to the contracting parties." (underling supplied)

Referring to 78 C. J. S. 1037, Section 185(b.) it is stated that a contract in excess of a term prescribed by statute is void. In Collins v. City of Lewiston, 107 Me. 220, the following language is found:

"When a contract conflicts with a statute the former must yield. Otherwise statutes could be modified or repealed without even the approving caress of the referendum."

Memo to Kermit Nickerson

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It is my opinion that the hiring agent had no authority to execute a contract for one year in the light of the statute.

George A. Nathan
Assistant Attorney General

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