

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

**for the calendar years**

**1959 - 1960**

MAINE STATE  
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over the years. Never has the section been used to either pay one superintendent more than the maximum amount authorized by statute, or to grant such sum to any body or person other than a superintendent. Of course, the amounts established in section 80 are now ancient and the variance between the figures, not less than \$1,150 nor more than \$1,350, is no longer realistic. Each and every superintendent in the State, we are advised, now makes sufficient money in his basic salary to entitle him to the greater amount of \$1,350.

Thus, if it appears that each of the superintendents associated with the union receives \$1,350 from the appropriation for superintendence, then the statute would be complied with.

It would seem that out of long custom no superintendent should be in a position to complain. The Revised Statutes of 1954, Chapter 41, section 77, provided that "regrouping shall be made only upon the expiration of the current contract of the superintendent or under conditions which will safeguard the provisions of such contract." Subsequently this provision was repealed. However, in an opinion from this office dated December 10, 1957, it was said:

"While the provision that "regrouping shall be made only upon the expiration of the current contract of the superintendent or under conditions which shall safeguard the provisions of such contract" contained in the Revised Statutes of 1954 was eliminated in the new law, still, such provision should still be complied with. It is a general principle, without legislation, that the State shall not pass any law impairing the obligation of the contract. It is also imperative that State officers take no action under a law that would have the effect of impairing the obligation of the contract. Thus the contract of the superintendent must be handled in a manner that contemplates the new town in a union, or the adjusting of the units should await the termination of the superintendent's current contract."

We have been advised by the Department of Education that the one superintendent who may have been concerned with these statutes has left the State and that such regrouping was finally accomplished at the expiration of that superintendent's contract.

For the above reasons we conclude that there has been no violation of the law in respect to the manner of payment of benefits under section 80, chapter 41.

Very truly yours,

JAMES GLYNN FROST  
Deputy Attorney General

January 20, 1960

To: Frank S. Carpenter, State Treasurer

Re: Executive Council — Pay during Legislative Sessions

In answer to your oral request as to the amount to be paid to members of the Executive Council during this Special Session, it is our opinion

that the Executive Council is now in session at the call of the Governor and not simply because the Legislature has convened in Special Session. Therefore, they should receive twenty dollars (\$20.00) per day and actual expenses as stated in Section 3 of Chapter 11, Revised Statutes of 1954.

There is no statute or constitutional provision stating that they shall be in session while the Legislature is in Special Session.

FRANK E. HANCOCK  
Attorney General

January 21, 1960

To: Mr. Charles E. Crossland  
Vice President for Administration  
University of Maine  
Orono, Maine

Dear Mr. Crossland:

Reference is made to your letter of January 4, 1960, addressed to the Attorney General, questioning whether students of Indian parents are entitled to attend the University tuition free.

I find no specific authority under the laws of this state or in treaties with the Passamaquoddy or Penobscot Indian Tribes entitling Indians to free admission to the University.

As you know, at one time all residents of Maine were entitled to free admission to the university and the law would now appear to be that the Trustees of the University are directed to charge all students a reasonable tuition, determined from time to time, but that "they may abate said tuition to such worthy pupils resident in the State as may be financially unable to pay the same, and to students pursuing the courses in Agriculture and in Home Economics." (See Private and Special Laws of Maine 1913, Chapter 128).

If the trustees feel that an Indian or any other citizen qualifies in respect to the above provisions, they may abate the tuition.

Very truly yours,

STANLEY R. TUPPER  
Assistant Attorney General

January 22, 1960

To: Committee on Judiciary

Re: Water System — Authority to receive Legacy for

Attention: George Weeks

We have your request for our thoughts concerning L. D. 1433, an act authorizing the Town of Franklin to receive a legacy for a water system.

There does not appear to be any authority in Chapter 90-A, Revised Statutes of 1954, for a town to maintain a water system without legisla-