

# MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calender years

1961 - 1962

*in executing the duties of his office. . . .* Deputy forest fire wardens shall perform such duties, at such times and under such rules and regulations, as the commissioner, or the chief fire warden of the district with the approval of the commissioner, may prescribe.” (Emphasis supplied)

Under the provisions of law quoted above it would appear that the chief forest fire warden in an area may properly delegate any or all of his powers to a deputy warden. This power to delegate, in our opinion, includes the power to authorize the deputy warden or wardens to arrest persons who are in violation of any state law relating to forests and forest preservation. It is our further opinion that each deputy warden can be delegated the power and right to take evidence of violation of laws relating to forests and forest preservation. This delegation can be made in the same manner as the delegation of the power of arrest.

THOMAS W. TAVENNER

Assistant Attorney General

May 24, 1962

To: Kermit S. Nickerson, Deputy Commissioner of Education

Re: Including Federal Aid Under Public Law 874—1950 as a Part of the Foundation Subsidy Program of the State

Chapter 41 of Section 237-D excludes from the total foundation subsidy program, “tuition collections and other school maintenance incidental receipts.”

The State Board of Education has ruled that federal aid received under certain sections of Public Laws of 1950, Chapter 874, is not an “incidental receipt” and, therefore, is to be included within the state foundation subsidy program. The Board has also excluded aid received under some sections of said Public Law 874 as an incidental receipt. You now inquire whether or not the State Board of Education has authority to include aid received by a municipality under section 3(c)1 of Public Law Chapter 874, as part of the state foundation program.

The law does not define “school maintenance incidental receipts.” The State Board of Education after considerable research has published a list of receipts which it deems to be school maintenance incidental receipts and not includable in the state foundation subsidy program. It is my opinion that the State Board of Education is acting within its authority when it determines which receipts shall be considered as included or excluded under the term “school maintenance incidental receipts.”

You have informed me that inclusion within the foundation program of federal aid paid under section 3(c)1 of Public Law 874 would involve a considerable expenditure of state subsidy funds. I would suggest, therefore, that before the State Board includes federal aid paid under section 3(c)1 within the state foundation program, that enabling legislation be enacted either in the form of including such sums for state subsidy in the education budget, or an amendment to section 237-D defining “school maintenance receipts” to include federal aid under Public Law 874.

RICHARD A. FOLEY

Assistant Attorney General