

# MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT  
OF THE  
ATTORNEY GENERAL

for the calender years

1961 - 1962

The person appointed by the Governor and confirmed by the Council will serve until January 1, 1965.

GEORGE C. WEST

Deputy Attorney General

August 7, 1962

William W. Dunn, Principal  
Kents Hill Preparatory School  
Kents Hill, Maine

Dear Sir:

In confirmation of our recent telephone conversations, I am writing to you to clarify the position of this office in relation to the additional fee charged to the parent of a student when the student is resident in a Town which does not maintain a secondary school gains admission to Kents Hill.

The first sentence of section 107, Revised Statutes, chapter 41, provides as follows:

“Any youth whose parent or guardian maintains a home for his family in any administrative unit which does not support and maintain an approved secondary school may attend any approved secondary school to which he may gain entrance by permission of those having charge thereof.”

The next paragraph of section 107 reads as follows:

“In the case of any youth attending school, *under conditions as provided for in the preceding paragraph*, in schools in which the average daily membership, as reported in the preceding year, is 100 or more students, and the school offers at least 2 occupational courses, the annual tuition shall not exceed . . . . (The legal tuition rate).” (Emphasis ours)

When an Academy accepts students from a Town which does not maintain a secondary school, then the Academy for the purposes of receiving tuition from the sending Town is deemed to be a public school and any additional charge to the parent of such a student in the form of tuition is in contravention of the statute.

Since the legal tuition rate is \$463.56 and the average cost per pupil at Kents Hill is \$717.56, I can well understand your position in this matter but the law appears to be clear on the subject.

Very truly yours,

RICHARD A. FOLEY

Assistant Attorney General

August 8, 1962

To: Steven D. Shaw, Administrative Assistant, Executive Department

Re: International cooperation

We have your request for an opinion with regard to the limitations imposed upon the Chief Executive of the State of Maine in his negotiations with the

Canadian Government by the terms of Title 18, Section 953, U.S.C.A. (Logan Act). This Section reads as follows:

“§ 953. *Private correspondence with foreign governments*

Any citizen of the United States, wherever he may be, who, without authority of the United States, directly or indirectly commences or carries on any correspondence or intercourse with any foreign government or any officer or agent thereof, with intent to influence the measures or conduct of any foreign government or of any officer or agent thereof, in relation to any disputes or controversies with the United States, or to defeat the measures of the United States, shall be fined not more than \$5,000 or imprisoned not more than three years, or both.

“This section shall not abridge the right of a citizen to apply, himself or his agent, to any foreign government or the agents thereof for redress of any injury which he may have sustained from such government or any of its agents or subjects.”

After an analysis of the terms of the above Statute, we are of the opinion that it in no way prohibits the Governor of Maine from negotiating directly with Canadian officials, providing the subject of negotiations is not a dispute or controversy between the United States and Canada, and is not aimed at defeating the measures of the United States.

It should be noted that if a final determination by the Justice Department of the United States is required, request for such a determination should be directed to the United States Attorney in Portland. His office will be glad to forward the request to the Justice Department in Washington for final determination.

THOMAS W. TAVENNER

Assistant Attorney General

August 15, 1962

To: John H. Reed, Governor of Maine

Re: Vacancy in Office of President of Senate

We have your request for an opinion with regard to the following question:

“In the event a vacancy occurs in the office of the President of the Senate, is it mandatory for the Governor to convene the Legislature for the purpose of filling the vacancy?”

The procedure to be followed in the event of a vacancy in the office of Governor is set forth in Article V, Part First, Section 14, of the Constitution of the State of Maine. This section reads as follows:

“Whenever the office of governor shall become vacant by death, resignation, removal from office or otherwise, the president of the senate shall assume the office of governor until another governor shall be duly qualified; in the event such vacancy occurs not less than 90 days immediately preceding the date of the primaries for nominating candidates to be voted for at the biennial election next succeeding, the president of the senate shall exercise the office of governor until the first Wednesday of January following such biennial election. At such biennial election, a