

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

STATE OF MAINE

L

Inter-Departmental Memorandum Date October 6, 1976

To H. Sawin Millett, Jr., Commissioner Dept. Educational & Cultural Services
Asa A. Gordon, Deputy Commissioner Educational & Cultural Services
From Waldemar G. Buschmann, Ass't. Atty. Gen. Dept. Educational & Cultural Services
Subject Community School District Trustees and School Committee Members

FACTS:

Jonesport-Beals Community School District (Moosabec CSD) was formed under section 360-A, of Title 20, M.R.S.A. The voters of the two towns voted affirmatively on the following article:

"To see if the town will vote to have three members of the school committee serve as district trustees."

The first paragraph of § 360-B provides that "[i]f the towns vote favorably on the second article of section 360-A," (quoted above) "3 trustees for each town shall be chosen from the membership of the school committee by the school committee. The trustees shall have the duties of the board of trustees and the school committee as provided in sections 352-356." Since the above article was favorably voted upon by the voters from Jonesport and Beals, each town has three representatives serving as trustees for Moosabec CSD. Consequently, Jonesport, with a population of approximately 1,339, has three (3) members on the board of trustees, and Beals, with a population of approximately 620, has three (3) members on the board of trustees.

QUESTION:

Does 20 M.R.S.A. § 360-B comply with the one-person, one-vote constitutional principle emphasized in Powers v. Maine School Administrative District #1, (D. Maine N.D. 1973), 359 F. Supp. 30, inasmuch as it mandates that the community school district's board of trustees will perform those duties normally delegated to a community school district's school committee?

(This opinion is being sought in line with the Commissioner's duty to provide "general supervision of all public schools" and his duty to provide "advice to school officers, relating to new school enactments as" is "necessary for the intelligent and effectual enforcement of such enactments." 20 M.R.S.A. § 102, sub_§§ 1 and 6. Section 360-B, of Title 20, M.R.S.A., was

enacted by Chapter 132 of the Public Laws of 1973.)^{1/}

ANSWER:

Section 360-B provides for the one-person, one-vote constitutional principle when the board of trustees perform those duties normally delegated to a community school district's school committee.

REASONS:

Federal District Court Judge, Edward T. Gignoux, ruled in Powers v. Maine School Admin. Dist. No. 1, supra, at p. 31, that "the one-person, one-vote principle applies to the election of the members of the board of a local school district."^{2/} 20 M.R.S.A. § 360-B.

^{1/} This opinion is in response to an oral request from the Commissioner and the Deputy Commissioner. On July 22, 1976, Harry S. Fish, Chairman of the Jonesport Board of Selectmen, mailed a petition to the Attorney General which had been signed by 130 citizens of the Town of Jonesport. The petitioners were questioning the constitutionality of Jonesport and Beals each having equal representation on the "Moosabec Community School Committee" (sic). The petition was forwarded to me as the attorney assigned to the Department of Educational and Cultural Services ("DECS"). It appears that DECS has provided contradictory advice on this subject in the past. It is the intent of DECS to resolve this matter by means of an administrative letter to all Community School Districts based upon advice from the Attorney General's office.

^{2/} Judge Gignoux in Powers, supra, held that the "one-person, one-vote principle applies to the election of the members of the board of a local school district," because the board exercised "the requisite governmental functions." In particular, he found that the directors "are authorized to require the assessment of taxes by the member municipalities (20 M.R.S.A. § 305); to issue bonds with the approval of a majority of the voters of the district as a whole and to borrow short-term funds without such approval (20 M.R.S.A. § 304); to employ and discharge teachers (20 M.R.S.A. § 224); to own and administer educational property and funds (20 M.R.S.A. §§ 217, 218); and to dispose of such property under certain conditions (20 M.R.S.A. § 307); to establish satisfactory school programs (20 M.R.S.A. § 211); and, in general, to conduct and manage all public schools within the district (20 M.R.S.A. § 224)." Powers, supra, p. 33. It should be noted that a CSD school committee has "all the powers and duties with respect to the community school conferred upon school committees under the general statutes and those enumerated in section 353." (20 M.R.S.A. § 356).

H. Sawin Millett, Jr.
Asa A. Gordon
Page 3
October 6, 1976

does provide a mechanism whereby the communities making up a Community School District ("CSD") may vote to have each community represented by the same number of representatives on the board of trustees despite the fact that the population of the member communities may not be the same. The board of trustees, pursuant to this mechanism, would perform the "duties of the board of trustees and the school committee." At first impression this would appear to violate the one-person, one-vote principle emphasized in Judge Gignoux's ruling. However, § 360-B must be read in its entirety.

The second sentence of the first paragraph of § 360-B states that "the Trustees shall have the duties of the board of trustees and the school committee as provided in sections 352 to 356." Section 356 provides that:

"the representation of each town on the community school committee. . . shall be in approximately the same ratio to the total membership of the committee as the town's latest Federal Decennial Census is to the latest Federal Decennial Census of the member towns."

Since statutes are entitled to a presumption of constitutionality, they should be interpreted so as to avoid a danger of unconstitutionality and it "must be presumed that" the Legislature "intended to do only that which the Constitution authorized it to do. . . ." Oxford County Agric. Soc. v. School Admin. Dist. No. 17, (Me., 1966), 220 A.2d 485 at 487; see State v. Davenport (Me., 1974), 326 A.2d at 4, 6. If the CSD trustees, pursuant to § 356, should establish a weighted vote method of "representation of each town on the community school committee, assuming the voters had passed the second Article contained in § 360-A, the one-person, one-vote principle discussed in Powers, supra, would be complied with. The end result would be that each member of the board of trustees would have a weighted vote when the board is dispensing with its school committee duties equal to one-third of the ratio of his town's population, as reflected in the latest Federal Decennial Census, to the total population of the member towns, also as reflected in the latest Federal Decennial Census. Therefore, it is my opinion that the Legislature provided in § 356 for the people in a CSD (such as Moosebec CSD) to be represented on a one-person, one-vote basis and that the Trustees have a duty to provide for such representation when discharging the school committee duties.


H. Sawin Millett, Jr.

Asa A. Gordon

Page 4

October 6, 1976

It should be noted that in the wake of the Powers case, supra, the Legislature provided for a weighted vote approach as one alternative to resolving representation problems on the boards of school directors in School Administrative Districts which did not meet the requirement of the one-person, one-vote principle. 20 M.R.S.A. § 301. (See ch. 750 of the Public Laws of 1973, eff. March 19, 1974).



WALDEMAR G. BUSCHMANN

Assistant Attorney General

WGB/ec