

MAINE STATE LEGISLATURE

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April 13, 1935

Captain Joseph F. Young, Jr.
Deputy Chief State Highway Police
Augusta, Maine

Dear Sir:

Pursuant to your letter of April 12, in which you ask the opinion of this office regarding the use of the scales of your department in weighing motor vehicles, and the possible effect in court of the fact that the weights in question had not been sealed by a sealer of weights and measures,

I understand from the letter to you from Mr. Cole that there are several prosecutions pending where the question may be raised that the weights were not sealed and, therefore, not legal. In these prosecutions the only question involved is whether or not the motor vehicle in question was overweight. In order to establish that fact you will present evidence that these motor vehicles were weighed upon scales which were not sealed. Respondents may argue that there is a reasonable doubt as to the accuracy of these scales. You may meet that objection by having the scales tested now if they have never been tested before.

The chapter in our statutes dealing with the sealing of weights and measures was one designed to prevent the practice of fraud upon the unwary. That is not the situation here. The evidence presented by the scales is, of course, not conclusive and may be rebutted, but I am firmly of the opinion that the information furnished by the scales is admissible evidence toward establishing the weight of the trucks in question. The exact point appears never to have arisen in our courts and I do not think that any judge will resolve the question in favor of a respondent since the State has no exceptions, and no decision of our courts can be obtained except at the instance of a respondent.

In searching through our cases I do not find that a defendant in a civil action, when sued for the price of goods, has ever attempted to defend upon the ground that the scales used for weighing the commodity bought had not been lawfully sealed by a sealer of weights and measures. In any event I should certainly urge upon the court the reasonableness of your position establishing, if necessary, that the weights when purchased and received by the State were from a reliable firm and certified by that firm to be accurate.

Most cordially yours,

Attorney General

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