

MAINE STATE LEGISLATURE

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STATE OF MAINE

R E P O R T

OF THE

ATTORNEY GENERAL

for the calendar years

1949 - 1950

November 21, 1949

To Honorable Frederick G. Payne, Governor of Maine
Re: Letter to you from William P. Shapleigh, Executive Secretary,
Maine Truck Owners Association, dated November 16, 1949

I have read Mr. Shapleigh's letter, addressed to you, in which he suggested that by some approach the judges of municipal courts should recognize the implications of a meagre \$10-\$25 fine for weight violations. He further stated that any existing operating surplus in the MPUC funds should be immediately allocated to further enforcement of both the Commission's regulations and the gross weight restrictions. He also suggested that east- and west-bound platform scales, with 24-hour operation, be installed at Kittery at the junction of U. S. 1 and the Turnpike.

I note that a copy of this letter went to A. J. Cole of Cole's Express, Bangor. I talked with Al. Cole and his son, Jerry Cole, who is president of the Association, last Saturday evening at Bangor, and they both feel that the fines meted out by the municipal court judges in Maine do not deter certain truck operators from violating the over-load statute. They cited a case in Maine where a violator was fined \$10 twice for overloading and on the same load in New Hampshire he was fined nearly \$300.

Section 27 of Chapter 19 of the Revised Statutes was amended by Chapter 52 of the Public Laws of 1947 and Chapter 349, §22, P. L. 1949, and now reads:

"No person shall operate, or cause to be operated, any truck, tractor, trailer or combination of truck, tractor and semi-trailer, with a load that is more than 10% above that specified in the registration certificate for such vehicle for trucks of gross weight of not over 15,000 pounds and 5% for trucks of gross weight of over 15,000 pounds; provided, however that no motor vehicle of either a single unit or combined unit shall be operated on the highway with a load that exceeds 50,000 pounds, gross weight of vehicle and load."

The penalty for violation of this statute will be found in Section 135 of Chapter 19, R. S. 1944, which provides as follows:

"Whoever violates or fails to comply with the provisions of any section of this chapter, or any rules or regulations established thereunder, when no other penalty is specifically provided, shall be punished by a fine of not more than \$100, or by imprisonment for not more than 90 days, or by both such fine and imprisonment."

The fines for overloading do not go into the surplus in the MPUC funds, as Mr. Shapleigh seems to intimate in his letter to you. The fines for overloading go into the general highway fund.

Section 23 of Chapter 44, as amended by Chapter 126, P. L. 1947, has to do with operating motor trucks under the jurisdiction of the MPUC. Each application for a permit shall be accompanied by a fee of \$15 and each re-opening or rehearing of an application requires an additional fee of \$5, which is not for revenue purposes, but shall be used by the Commission for the

purpose of defraying the expenses of administering the provisions of Sections 17 to 30, inclusive, of Chapter 44, R. S. Section 30, subsection I of Chapter 44, as amended by Chapter 390, P. L. 1949, provides the penalties for violation of the provisions of Sections 17-29, inclusive, or of any rule, regulation or order made or issued by the PUC pursuant to authority of the statute, and the penalty for violation of these statutes is by a fine of not less than \$10 nor more than \$500 or by imprisonment for not more than eleven months or both.

I am merely stating the law so that you can explain to the Maine Truck Owners Association that an increase in the fines by the municipal court judges for overloading would not increase the operating surplus of the PUC's funds and could not be used to further enforcement of the Commission's regulations and gross weight restrictions except by act of the legislature.

In regard to the east- and west-bound scales suggested to be installed in Kittery at the junction of U. S. 1 and the Turnpike, that is a matter to be worked out from a practical standpoint.

My only suggestion to you is that you might bring to the attention of the judges of the municipal courts, without encroaching upon the prerogatives of the courts, that these meagre fines of \$10 to \$25 for weight violations do not seem to deter those who insist on violating the overload law, because they will gladly pay a \$10-\$25 fine and do the same thing over again; but the judges can only go up to \$100 on fines for overloading, as I have outlined in this memo. . .

RALPH W. FARRIS
Attorney General

November 25, 1949

To W. O. Bailey, Deputy Commissioner of Education
Re: Planning and Research Questions *re* School Property

I have your memo of November 8th, stating that the superintendent of schools in Greenville has raised certain questions concerning school property. He states that the Station school in Jackman, which has been closed for a number of years, is located on land donated by the Coburn Heirs by deed stating that when the property is no longer used for school purposes it shall revert to the owners. The school authorities have been using it for storage purposes since no school has been held there, in order to hold it against such time as they might have to re-open it because of increased enrollment. He asks the following questions:

"1. Is the manner which we are using to hold this property legal, if not what steps should be taken?"

Answer. If the school committee is using this building for the storage of school property, it would be a legal use and the land would not revert to the owners. If they are using it for storage of property outside of school property, it would raise a question as to why the land should not revert to the owner. The only step to be taken to prevent reversion is to use the building for school purposes of some nature.