

# 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**

therefor made by the board of which and while he is a member thereof, and that all contracts made in violation hereof are void. Therefore this brings up the question of whether or not the furnishing of the insurance policies for the county comes within the provisions of this section. Even if the county commissioners come within the provisions of this section and also within Section 17 of Chapter 122 and the contracts made in violation thereof are void, the voiding of contracts is a question for the courts to pass upon. For that reason I do not want to give an opinion as to whether or not these payments are legal which you set forth in your Schedule A-11, page 19 of your audit. The county commissioners as a board have passed upon these vouchers and the vouchers have been paid by the county treasurer. It seems to me that only court action could bring about a determination of whether or not these payments are legal, and in order to do so, further evidence would have to be obtained as to what interest, direct or indirect, a county commissioner had in W. J. Wheeler & Co., Inc., and the county treasurer in Goodwin's, Inc., if these two firms are duly incorporated.

On reference to the records in the Attorney General's office, we find that Goodwin's, Inc., was incorporated June 10, 1948. Pauline McCormick of Norway is listed as clerk, and the 1949 tax has been paid. Our records also indicate that W. J. Wheeler & Co., Inc., was organized on June 21, 1918. The clerk is Gertrude N. Abbott of South Paris, and the 1949 tax has been paid. Therefore the county commissioners were approving vouchers of two corporations rather than in their capacity as county officers, and the question is whether they are pecuniarily interested, directly or indirectly, in these contracts.

The last paragraph in your general comments states, "It is believed that review can be made of the expenses listed on Schedule A-11 to ascertain their legality." Under the present situation I would not include that in your comments if I were you. I would simply leave the statutes quoted in your general comments as they are, because a review can be had only by the courts to ascertain whether or not the contracts are void. There is no penalty in any of these statutes, unless there is a drawback.

RALPH W. FARRIS  
Attorney General

April 10, 1950

To Ernest H. Johnson, State Assessor  
Re: Sanford-Dover, N. H., line

I have your memo of March 17, 1950, relating to the Boston & Maine Railroad's selling a 44-mile branch line operating between Sanford and Dover, N. H., to the Sanford & Eastern Railroad on July 1, 1949. You inquire whether, in computing the railroad tax this year, under Chapter 14, § 111, the tax should be computed as follows:

"Boston and Maine should include in its report gross receipts and operating expenses for this line for the period January 1 to June 30, and in computing its average mileage consideration should be given to this mileage for the period owned—that is, 44 miles for  $\frac{1}{2}$  year, or 22 miles average,—and the tax assessed at  $3\frac{1}{2}\%$  or more depending on the net operating revenue as compared to the gross operating revenue.

"Sanford and Eastern should report on its gross receipts for the period July 1 to December 31 and an assessment made of 2% on such receipts.

"Or, should the Sanford and Eastern tax be based upon gross receipts of this particular 44.9 mile line for the entire year (including the portion when it was operated by Boston and Maine), with Boston and Maine excluding any receipts and expenses attributable to this line from its report?"

After reading your memo and also after the conferences which I have had with you and Mr. Huot of your department, it is my opinion that the Boston & Maine should include in its reports gross receipts and operating expenses for this branch line for the period January 1 to June 30 and that in computing its average mileage consideration should be given to this mileage for the period owned, that is, 44 miles for  $\frac{1}{2}$  year, and the tax assessed at  $3\frac{1}{2}\%$  or more, depending on net operating revenue; and the Sanford & Eastern Railroad should report on its gross receipts for the period July 1 to December 31 and an assessment should be made of 2% for such receipts, as this entire line is less than 50 miles.

RALPH W. FARRIS  
Attorney General

April 11, 1950

To Ermo H. Scott, Deputy Commissioner of Education  
Re: Liability of superintendents of schools to the provisions of  
Par. II, Sec. 201, C. 37, R. S. 1944, as amended

Reference is made to your memorandum of March 31, 1950, relative to the above subject. You asked whether or not the following sentence as it appears in Subsection II of Section 201 of Chapter 37, R. S. 1944, applies to superintendents:

"Whenever any certified teacher completes, within any 2-year period, 6 credit hours of additional professional work approved by the commissioner and receives supplementary financial assistance in an amount not less than \$50 from the town, the town shall receive reimbursement of \$50 from the state for such expenditure at the next distribution of state funds, provided further, that the renewal of each teaching certificate shall be conditional on the completion of at least 6 semester hours of professional study within each period of 5 years."

The particular clause to which you refer reads as follows:

". . . provided further, that the renewal of each teaching certificate shall be conditional on the completion of at least 6 semester hours of professional study within each period of 5 years."

I have given this clause considerable study and am inclining to the opinion that the clause itself has little or no relevance to the rest of the sentence in which it appears. However, since I must, as a matter of law, construe the clause as being properly in context, it is my opinion that the renewal of certificates, referred to in the clause cannot refer to renewal of superintendents' certificates, for the reason that the \$50 subsidy referred to in the context is not paid because of superintendents' qualifications but only for teachers' qualifications. Since the status of a superintendent can have nothing to do with the giving of a \$50 subsidy, the clause, as it appears in the context, cannot apply to superintendents.