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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1949 - 1950

Properly equipped trucks with dolly wheels may be considered as three-axle trucks when the effect of the dolly wheels is such as to bring the vehicle within the limits of weights permitted to be imparted to the road surface as provided in Section 100, page 60 of the Motor Vehicle Laws.

It has also been asked whether or not it makes any difference whether the dolly wheels are supplied with motive power. The answer is that motive power has nothing to do with it. The question is simply one of weights imparted to the road surface.

Whether or not in any particular case State Police officers, in weighing trucks, should allow these trucks equipped with dolly wheels credit for three axles will depend entirely upon whether the dolly wheels carry the weight to bring the vehicle within the limits of weight imparted to the road surface.

It has also been asked, as to the measuring of the distance between the extremes of axles, whether the measurement should be taken to include the dolly wheels. In the light of the foregoing, the answer to this question would be, Yes, if, as stated above, the dolly wheels are so rigged as to perform the function of keeping the vehicle within the limits of weights to be imparted to the road surface.

JOHN S. S. FESSENDEN
Deputy Attorney General

May 2, 1950

To Harland A. Ladd, Commissioner of Education
Re: Chapter 102, P&SL 1949; your memo of April 18, 1950

In your memorandum you ask the question:

"1. Does Chapter 102 of the Private and Special Laws of 1949 give the commissioner of education authority to approve a prorating of capital costs for the new building as a part of proper tuition charges?"

In this question your reference to "new building" refers to a proposed plan to erect a new school building, which construction would not be that of an alteration to an existing building. As you know, a town, under the general law of the State, may erect school buildings within the financial limits of the town, so that the particular question involved here, under Chapter 102, is not whether or not the Town of Brunswick has authority to construct a building, but whether, under the provisions of the chapter, the building having been constructed, you, as Commissioner, would have authority to approve an augmented tuition charge by the Town of Brunswick to towns sending pupils to Brunswick, over and above the standard tuition charge as fixed by the formula in the general law of the State.

Mr. Farris and I have studied Chapter 102 and the general laws of the State very carefully and have come to the conclusion that, under the provisions of Chapter 102, you would not have authority to approve a contract calling for an augmented tuition charge to defray the additional expense to which the Town of Brunswick had subjected itself in building a new school building.

In your memorandum you ask a second question, reading as follows:

"2. If the new building is connected to the existing high school structure by a corridor or breezeway, would this be construed as altering existing buildings and thereby make the supplementing charges legal?"

There is no question that under the provisions of Chapter 102, P&SL 1949 you have authority to approve a contract calling for an augmented tuition charge over and above the standard charge prescribed by the general laws, to help reimburse the Town of Brunswick for additional expense to which the Town of Brunswick is put in the alteration of any existing building. Whether or not the connecting of a structure to an existing high school building by a corridor or breezeway constitutes an alteration to an existing building would be a question of fact, in which all pertinent circumstances would have a bearing in determining whether the enterprise constituted an alteration or new construction. Since this is a question of fact, we are unable to advise you whether, as a matter of law, the connection by a corridor or breezeway would constitute an alteration within the meaning of the statute.

JOHN S. S. FESSENDEN
Deputy Attorney General

May 5, 1950

To Col. Francis J. McCabe, Chief, Maine State Police
Re: Motor Vehicle Inspection

I acknowledge receipt of your memo of May 3d, in which you ask for an interpretation of Paragraph 5 of Section 35, Chapter 19, R. S., relating to the inspection of motor vehicles. This statute reads as follows:

> "No dealer in new or used motor vehicles shall permit any such vehicle owned or controlled by him to be released for operation upon the highways until it has been inspected as herein provided and a proper sticker certifying such inspection placed thereon. If such vehicle bears thereon a certificate showing a prior inspection, the same shall be removed. The provisions of this paragraph shall not apply to sale of vehicles as junk or to those which are to be repaired and put into condition so as to pass inspection by the purchaser thereof."

It seems to me, after reading this paragraph of Section 35, that the intent of the legislature is very clear. When a used-car dealer takes a motor vehicle in trade with the inspection sticker thereon obtained by the previous owner, he must remove said sticker and have the car reinspected under the provisions of this statute before the car is again put on the road. In other words, the certificate of the previous owner is not sufficient in the case of a dealer in new and used cars.

RALPH W. FARRIS
Attorney General

May 9, 1950

To Brig.-Gen. George M. Carter, The Adjutant General
Re: Plane Insurance

With reference to your memorandum of April 14, 1950, relative to the study that has been made as to insuring against bodily injury and property damage which may result from the operation of aircraft flown by Maine Air National Guard pilots, you are advised that the Attorney General and I have conferred on the problem and that he has suggested that I write you along the following lines: