

MAINE STATE LEGISLATURE

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April 7, 1953

To Alexander A. LaFleur, Attorney General
Re: L. D. 1273, An Act Relating to Aroostook County Funds for
Ricker College.

You have inquired whether L. D. violates any provision of
the Constitution of Maine.

In my opinion the bill is constitutional.

It is permissive in effect, proving simply that Aroostook
County "may expend not exceeding the sum of \$10,000 annually,
for Ricker college, . . ."

As I understand the statutory intent, the County of Aroostook
may expend as a county expense any amount it desires up to \$10,000
in any one year for an indefinite number of years.

The bill should be corrected, naming the institution "Ricker
Classical Institute and Ricker College".

The entire legislative history of the institution is as
follows, according to Cowan's Index:

"Chapter 395, P & S 1837. The institution was incorporated
as "Trustees of the Houlton Academy" for the purpose of
"advancing Science and Literature, and promoting morality,
piety and religion."

Chapter 10, P & S 1847. This is a fresh act of incorporation,
not referring to the former act. The incorporators are incorporated
as "Trustees of the Houlton Academy". The legislature gave the
trustees power to receive property the annual income of which may
not exceed \$2,000, "said income to be faithfully applied to promote
the cause of education; and the trustees aforesaid are intrusted
with all the powers and privileges incident to similar corporations."

Chapter 39, Resolves of 1847. The land agent of the State was
directed to convey to the Trustees one-half of a township but he
must first satisfy himself that the corporators "shall have fur-
nished a good and convenient adadematical building, shall have com-
menced a school in said building" and shall have \$1,000 net assets.

Chapter 370, Resolves of 1864. The Treasurer of State was
directed to pay to the Trustees of Houlton Academy \$2,000, the
same to be deposited with the Treasurer of State, he to pay the
interest annually to the Trustees.

Chapter 33, Resolves of 1866, another resolve in aid of the
1864 grant.

Chapter 126, Resolves of 1870. This is an appropriation of \$4,000 to Houlton Academy from the State Treasury.

Chapter 90, P & S 1887. The legislature changed the name to "Ricker Classical Institute" and empowered it to hold a greater amount of property.

Chapter 155, P & S 1921. The legislature appropriated \$2,500 to Ricker Classical Institute "for maintenance".

Chapter 37, P & S 1939. The legislature changed the name to "Ricker Classical Institute and Junior College". The legislature also gave power to confer the degrees of Associate in Arts and Associate in Science.

Chapter 118, Resolves of 1945. This act recites the destruction by fire of the main building of the school and the gymnasium, the raising of a considerable amount by voluntary subscription, the necessity of \$50,000 more, and contains an appropriation of the \$50,000. This is to be used to rebuild and also to assist veterans to obtain housing.

Chapter 42, P & S 1949. The name was again changed, this time to "Ricker Classical Institute and Ricker College". The legislature conferred the power to award a Bachelor of Arts degree.

From the above recitation, it is apparent that Ricker College has been the object of the State's bounty on several previous occasions. It has never, however, been the object of bounty of a county, as far as appears from a study of the statutes.

There is no doubt that the furtherance of education is a public purpose. Thus, we are not troubled by the restriction of Section 1, Part Third, Article IV, of the State Constitution, which provides that the legislature "shall have full power to make and establish all reasonable laws and regulations for the defense and benefit of the people of this state. . ."

Even the Constitution itself recites:

"A general diffusion of the advantages of education being essential to the preservation of the rights and liberties of the people. . ." (Article VIII.)

While the above mentioned Article VIII places the burden of maintaining schools upon towns, there is no question that the State may also share.

"By recurring to the debates of the convention by which the Constitution was framed, it will be seen that it was anticipated that state aid was to be granted for the support of schools, in addition to the suitable provision to be required by art. VIII, of towns."
Opinion of the Justices,
68 Me. 582, 585.

Where several towns are involved, I see no provision of the Constitution which requires that the legislature name them. It may, in lieu, name the county, there being nothing to prevent it. Our court, 109 Me. at 186-7, quoted with approval from a Kansas decision, State v. Board of County Commissioners, 28 Kansas 431:

"And finally we remark that counties are purely the creation of State authority. They are political organizations, whose powers and duties are within the control of the Legislature. . . In short, as a general proposition, all the powers and duties of a county are subject to legislative control; and provided the purpose be a public one and a special benefit to the county it may direct the appropriation of the county funds therefor in such manner and to such amount as it shall deem best."

The question before the Kansas court was whether the legislature might establish a state road and charge its cost to the county without assent of the county commissioners or the people of the county. This Kansas bill went much farther than the proposed Maine one. As above stated, the Maine bill is purely permissive.

In State Treasurer v. Penobscot County, 1910, 107 Me. 345, the court held that a county could be ordered by the legislature to pay a State law-enforcement officer. The reasoning of the court was that there is nothing in the Constitution to prevent such compulsion and that by law and custom the county has been asked to pay for law enforcement within its borders.

"The County Commissioners derive their powers and duties entirely from the statutes."
Maine v. Vallee, 1940,
 136 Me. 432, 446.

It has been held in Massachusetts that the power of the county to tax is dependent solely upon legislation. County of Middlesex v. Waltham, 1932, 278 Mass. 514, 516.

I should be a little concerned if our legislature directed the county commissioners to appropriate a fixed amount annually for this institution, my doubt being occasioned by the requirement of uniform assessments throughout the State for any State tax. However, that is not the nature of the bill here. The sole effect of the proposed legislation is to recognize the needs of the Ricker Classical Institute and Ricker College as county needs.

Boyd L. Bailey
 Assistant Attorney General

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