

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

It is, therefore, my conclusion that the excise taxes should be paid to the treasurer of the Town of Limestone. This memorandum is written, of course, with the understanding that the servicemen in question reside on that part of the air base which used to be within the Town of Limestone.

BOYD L. BAILEY
Assistant Attorney General

April 27, 1953

To Hon. S. W. Collins, State Senator
Re: Excise Tax in Limestone Air Base

You have forwarded to me for comment the letter of Mr. D. E. Chick, Town Manager of Caribou, dated April 23, 1953.

Mr. Chick points out that the Town of Caribou offers certain government services to servicemen at the Limestone Air Base and concludes, therefore, that "there doesn't seem to be any logical argument for payment in any particular town."

The statute in question is Section 40, Chapter 19, R. S. 1944, amended by Chapter 264, P. L. 1951. Non-residents, by this statute, "registering a motor vehicle or aircraft in this state shall pay to the municipality of the state where he is occasionally or temporarily residing, or if there be no such residing place, then to the state the excise tax above provided. . ."

It is apparent from reading this language that there is a legislative intent that the excise tax shall be for local, not state, benefits unless no locality can be determined to be a proper recipient. I have speculated, in my opinion of April 15, that the reason for this legislative policy is that the excise tax is to pay for government benefits such as police protection, street maintenance, etc. That is pure speculation. Mr. Chick disagrees with it. The essential consideration, in my judgment, is that the statute has made the criterion: "The municipality of the state where he is occasionally or temporarily residing." If that place can be found, the excise tax must be paid there. The servicemen are definitely located at the Base; there is no question as to the location of their living quarters. That being the case, I see no reason why the tax should not be paid to that municipality in which those living quarters are. . . .

BOYD L. BAILEY
Assistant Attorney General

April 28, 1953

To Herbert G. Espy, Commissioner of Education
Re: Distribution of Bibles in the Public Schools

We have your memo of April 22, 1953, in which you ask the following questions:

"(1) Is it legally possible for a school committee to authorize an organization, such as the Gideons, to distribute Bibles in the public schools?"

“(2) Is it legally possible for a school committee to accept a gift of Bibles, from an organization like the Gideons, with the express understanding that the manner and extent of their distribution and use in the schools will be determined by the school committee?”

We would direct your attention to section 127 of Chapter 37 of the Revised Statutes which in part provides that in order “to make available to the youth of our land the book which has been the inspiration of the greatest masterpieces of literature, art and music and which has been the strength of the great men and women of the Christian era, there shall be, in all the public schools of the State . . . reading from the Scriptures. . .”

It is our opinion that both of your questions can be answered in the affirmative, there being nothing inconsistent with such action with respect to the above quoted provision of our law.

ALEXANDER A. LaFLEUR
Attorney General

May 6, 1953

To Allan L. Robbins, Warden, Maine State Prison
Re: Property of Deceased Prisoners

We have your memo in which you state that you have on hand an accumulation of personal property and cash belonging to deceased prisoners. You seek our advice concerning the disposition of such personal effects and cash.

When a prisoner dies in your institution leaving money on deposit, that money and other property should be disposed of under the provisions of section 47 of Chapter 23 of the Revised Statutes, which section provides that it shall be turned over to the representatives of the deceased. This property should, then, be turned over to the administrator of the estate of the deceased or to his next of kin or, if a Public Administrator has been appointed, then to him.

JAMES G. FROST
Deputy Attorney General

May 7, 1953

To Herbert G. Espy, Commissioner of Education
Re: Surplus Property

This office has been asked to certify to the Department of Health, Education and Welfare (formerly Federal Security Agency) that the surplus property program now operating in your department meets the standards set by the Federal Security Agency by regulation promulgated January 2, 1953 and found in the Federal Register, page 165, under date of January 8th. The regulation is too long to set out here, but the pertinent points will be discussed separately.

The statutes setting forth the duties of the Commissioner of Education and appropriating money to carry out this program are found in the Resolves of