STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

For The Calendar Years

1963 - 1964

3. The authorization of union dues deductions does not carry with it any incidental right of collective bargaining and/or arbitration. The only benefit that the union derives is that of having the dues deducted, and nothing more. In fact, collective bargaining, in the sense that private industrial employees are entitled to it, is not generally accorded to public employees, except in rare and isolated situations. See *Norfolk Teachers' Assoc. v. Board of Education*, 138 Conn. 269, 83 A. 2d 482; *Miami Water Works Local No. 654 v. Miami*, 157 Fla. 445, 26 So. 2d 194; *Mugford v. Mayor & City Council of Baltimore*, 185 Md. 266, 44 A. 2d 745; 31 A. L. R. 2d 1155-1159, 1170-1172.

4. The specific employees affected must authorize the dues deduction. See *Mugford v. Baltimore*, 185 Md. 266, 44 A. 2d 745; *Kirkpatrick v. Reid*, 193 Misc. 702, 85 N. Y. S. 2d 378. The State would not have the power to make the deduction of any labor union dues mandatory.

GEORGE C. WEST
Deputy Attorney General

January 15, 1963

To: Ernest H. Johnson, State Tax Assessor
Bureau of Taxation

Re: R. S. Chapter 16, sec. 199—Gasoline Road Tax on Motor Vehicles

Your memorandum of January 8, 1963, received requesting answers to questions propounded relating to R. S., chapter 16, sec. 199, Gasoline Road Tax on Motor Vehicles.

Question 1. If a truck is registered for a gross weight of from 16,001 lbs. to 18,000 lbs., paying $100 registration fee, can it be considered as being "licensed" for a gross weight of in excess of 20,000 lbs. during the months of December, January and February, under sec. 199 of Chapter 16, since under sec. 19 of Chapter 22 the vehicle may be operated with any overload during that period?

Answer: Section 19 of Chapter 22 provides the registration fees for trucks. The fourth paragraph of that section states that trucks for the registration of which a fee of $100 or more has been paid may be operated on the highways during the months of December, January and February with any overload provided it is not in excess of the provisions of sec. 109 of Chapter 22.

It is our opinion that a vehicle which is registered under sec. 19 of Chapter 22 for a gross weight of 20,000 lbs. or less is not "licensed" for a gross weight of in excess of 20,000 lbs., under sec. 199 of Chapter 16, even though under sec. 19 of Chapter 22 overloads are permitted during certain months of the year so that in those months the vehicle may be operated with a gross weight of over 20,000 lbs.

Question 2. If a truck is registered for a gross weight of 16,001 lbs. to 18,000 lbs., paying a $100 fee, and subsequently the owner pays the additional fee required for a "short-term permit" under the sixth paragraph of sec. 19 of Chapter 22, under which the vehicle is permitted to operate with

a gross weight in excess of 20,000 lbs., is such vehicle then to be considered as being "licensed" for a gross weight in excess of 20,000 lbs.?

Answer: The sixth paragraph of sec. 19 of Chapter 22 referred to "short-term permits," as distinct from normal registration or licensing under that section. It is our opinion that a vehicle registered for a gross weight of 20,000 lbs. or less, but permitted to operate with a greater gross weight because of a "short-term permit," is not to be considered as being "licensed" for a gross weight in excess of 20,000 lbs. under section 199 of Chapter 16.

RALPH W. FARRIS,
Assistant Attorney General

January 16, 1963

To: Honorable Norman K. Ferguson
Senator for Oxford County
Senate Chambers
State House
Augusta, Maine

Re: Expenditure of county funds for Retarded Children, Inc.

Dear Senator Ferguson:

This will acknowledge receipt of your letter of January 10, 1963, which is answered as follows:

Questions:

(1) Whether the legislature may direct a county to expend county moneys for the above-named corporation?

(2) If so, whether such moneys may be included in a legislative resolve laying such amount upon the county to be raised as a tax for the purpose of paying same?

Answers:

(1) Yes, where the purposes are public and of special benefit to the county.

(2) Yes.

Reasons:

In *Sawyer v. Gilmore*, 109 Me. 169, at page 186, our Supreme Court quoted with approval from a Kansas decision as follows:

> " . . . '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. That body defines the limits of their power, and prescribes what they must and what they must not do. It may prescribe the amount of taxes which each shall levy, and to what public purpose each shall devote the moneys thus obtained. . . . 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.' " (See: *State v. Board of Co. Coms. of Shawnee Co.*, 28 Kans. 431.)