

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

For The Calendar Years

1963 - 1964

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.)

In Cooley, Taxation, Vol. 1, section 102, there is stated:

" . . . In regard to counties . . . the rules applicable . . . may be stated as follows:

"1. They have no inherent power to tax for local purposes. Any power of taxation must be delegated to them either by the constitution itself or by the legislature.

"2. The legislature, unless forbidden by the constitution, may delegate the power of local taxation to such political subdivision. . . .

" . . .

"5. No tax levied by a county . . . is valid unless the purpose is both a public purpose and a local purpose. . . . "

Continuing, section 119 of Cooley's work on Taxation provides:

" . . . Among the purposes for which it has been held that a county may levy a tax for its use, as being for a county or corporate purpose, are . . . public improvements in general . . . and a county tax to aid in building a state home for the feeble-minded in the county is for a county purpose when the county will be specially benefited by the location of the institution in the county. . . . "

See, also, chapter 52, P.L. 1961, "An Act Relating to Expending Aroostook County Funds for Ricker College;" chapter 155, P.L. 1961, "An Act Relating to Expending Aroostook County Funds for Maine Potato Blossom Festival."

Respectfully yours,

JOHN W. BENOIT, JR.

Assistant Attorney General

January 28, 1963

To: Madge E. Ames, Labor and Industry

Re: Time records

We are in receipt of your request for an opinion requesting whether provisions of Chapter 30, section 38, Revised Statutes 1954 are complied with by keeping of time books or record books outside of the State of Maine. Chapter 30, section 38 states as follows:

"Such time books or records shall be open at all reasonable hours to the inspection of the commissioner, his deputy or any authorized agent of the department."

The keeping of time records at any place other than within the State of Maine, even though they are accessible with prior written notice, does not comply with section 38. The words, as found in section 38, " . . . shall be open at all reasonable hours . . . " presuppose the existence of the books at a place where the Commissioner, his deputy or any authorized agent of the department would have jurisdiction. If such records are without the State of Maine, then they are not open "at all reasonable hours to the inspection of the commissioner," etc.

WAYNE B. HOLLINGSWORTH

Assistant Attorney General