

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

**For The Calendar Years**

**1963 - 1964**

December 23, 1964

To: William T. Logan, Commissioner of Education

Re: Endorsement of Published Materials

Facts:

The Commissioners of Education of the nine northeastern states have created the Northeastern State Coordinating Council. By direction of the commissioners, the Council created a workshop at Tufts University concerning the subject of citizenship and public affairs. The workshop, composed of teachers, turned out certain materials which the Council wishes to have published and distributed throughout the nine northeastern states. In the past, Tufts University has caused these materials to be published at a commercial printing house; and the commissioners have sponsored the publication in furtherance of its distribution. Now, the Council has informed the commissioners that Tufts University can no longer undertake such publication; and, therefore, the publication of the materials must be effected elsewhere. The Council is aware that several states cannot endorse publications by commercial houses, and thus the Council faces a dilemma with respect to how best to publish and distribute the reference materials. Each commissioner has agreed to secure an opinion from his Attorney General's Office regarding the legality of publication and distribution of the reference material by a university press (such as the Harvard University Press).

Question:

Whether the Commissioner of Education for the State of Maine may legally endorse the publication of these workshop materials when such publication and distribution is done by a university press (such as the Harvard University Press) which is not considered a "commercial house," with royalties going to a special fund existing for the purpose of underwriting future projects?

Answer:

Yes.

Reason:

The workshop materials are a result of the efforts of the commissioners. The Council, acting pursuant to the direction of the commissioners, caused the workshop to come into existence; and thus, caused the reference materials to exist. The end product, then, can be said to be the work of the commissioners. In the past, the commissioners have effected such publication by utilizing the facilities of Tufts University. However, that university has secured such publication through a contract with a commercial house. Yet, under those facts, the commissioners sponsored the publication. Surely, publication by a university press (not being considered a "commercial house"), followed by endorsement on the part of the commissioners, would not be improper.

According to the Maine Laws relating to public schools, the Commissioner of Education is authorized to obtain information upon the subject of school systems of other states and countries; and is authorized to disseminate this information in order to bring about an improved system of instruction in this State. He is authorized, inter alia, "to do all in his power to awaken

and sustain an interest in education among the people and to stimulate teachers to well-directed efforts in their work." *R. S., c. 41, § 11, II.*

JOHN W. BENOIT  
Assistant Attorney General

December 28, 1964

To: Ernest H. Johnson, State Tax Assessor

Re: Power Line Extension Charges

Facts:

Questions have arisen as to the application of the Maine sales and use tax to pole line extension charges. When a customer of an electrical company lives outside of the service area of that electrical company, arrangements are made to provide service to the customer at an increased rate. This rate is reflected in an additional charge to the customer on his monthly bill for electricity.

A customer who wishes electric service from a power company and who is outside the service area agrees with the utility, in writing, as follows that:

1. The stipulated minimum amount will be paid.
2. The customer will contract with the utility for electric service in accordance with the schedule of rates — payments made by the consumer for electricity will be credited toward the guaranteed minimum for such month.
3. If the customer sells or ceases to occupy the premises he shall still be bound to the guaranteed payments; payments made for electric service on another location will not be credited but payments made at the original premises will be. The agreement in effect sets up a new minimum, as approved by the Public Utilities Commission, for the electrical service.

The electrical companies file a schedule of their rules and regulations which, among other things, provide a set rate for pole line extension charges. These rules and regulations are approved by the Public Utilities Commission. That Commission indicates that it considers these charges to be "rates."

The practical operation of this set of facts is as follows: John Jones, a customer of X Electric Company contracts with X Electric Company for electrical power. Under his contract he is obligated to pay \$2 monthly if he purchases no electricity and an additional \$6 monthly for pole line extension charges regardless of whether or not he purchases electricity. If he does purchase electricity the price of the electricity over and above \$2 will apply toward the pole line extension charge.

Question No. 1:

Whether such charges are to be treated for tax purposes in the same manner as minimum charges within the normal rate schedule; that is, the entire charge being taxable if any current is used, and no tax being applicable if no current is used?

Answer:  
Yes.