

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calender years

1965 - 1966

customer the insured. However, can the company be said to be paying monies to itself on behalf of the insured?

Remembering that the word premium implies a payment or consideration and that those words imply the existence of a debt or contractual relationship we must answer the question again in the negative. With the exception of this one instance monies paid (to a third person) on behalf of the insured constitute a premium since they are a consideration paid on an existing debt. But here, since one cannot contract with or owe monies to oneself, there is no debt and no payment and thus no premium.

Therefore, where one pays monies to oneself, on behalf of another, there is no payment of a "premium" as considered in the statute. Too, there is some question as to whether the monies transferred here are paid "on behalf" of the insured or merely reflect a reduced rate of insurance. The result is the same in either case, there is no premium paid.

CONCLUSION:

The monies contributed by the employees should be considered premiums, those by the company are not to be considered premiums.

JON R. DOYLE
Assistant Attorney General

January 17, 1966
Education

Kermit S. Nickerson, Deputy Commissioner

Mentally Retarded Children

FACTS:

The State Department of Education has an appropriation of monies in the amount of \$1350 which is to be utilized in the manner authorized by 20 M.R.S.A. § 3161. The reference statute is as follows:

"Any administrative unit may, in addition to the sum raised for the support of public schools, raise and appropriate money for the education of teachers and other school personnel to meet the educational needs of mentally retarded children. Such appropriation shall be expended on a matching basis with any funds made available by the department for the same purpose.

"Teachers and other school personnel who are so trained may be reimbursed through funds of the department on a matching basis for expenditures for such training approved in advance by the commissioner." 20 M.R.S.A. § 3161.

Teachers employed in approved private schools and teachers employed at the Pineland Hospital and Training Center have inquired of your Department whether they are eligible for reimbursement of expenses incurred by them in their study of courses preparing them for the education of mentally retarded children.

QUESTION:

Whether the State of Maine may legally expend the appropriated monies under the given facts?

ANSWER:

No.

REASON:

The tenor of 20 M.R.S.A. § 3161 is that the State shall participate in a program whereby public school teachers are trained "to meet the educational needs of mentally retarded children." The section does not admit of an interpretation that teachers in either an approved private school or teachers in the Pineland Hospital and Training Center may participate in the program.

JOHN W. BENOIT
Assistant Attorney General

January 18, 1966
Bureau of Taxation

Ernest H. Johnson, State Tax Assessor

Taxation of Personal Property of Banks

FACTS:

The factual situation that is treated in the following pages deals with the legality of municipalities subjecting tangible personal property owned by trust companies within the geographical boundaries of the State of Maine to local personal property taxation.

ISSUE:

Whether or not municipalities may subject personal property owned by trust companies within the State of Maine to personal property taxation during the same period a bank stock tax is being levied pursuant to 36 M.R.S.A. § 4752?

ANSWER:

No; municipalities may not, legally, levy personal property taxes against trust companies located within the State of Maine.

LAW:

36 M.R.S.A. § 601

§ 601 Personal property; defined

"Personal property for the purposes of taxation includes all tangible goods and chattels wheresoever they are and all vessels, at home or abroad." R.S. 1954, c. 92, § 5; 1955, c. 399, § 1; 1961, c. 223, § 4.