

MAINE STATE LEGISLATURE

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Use of State School Busses of the Unorganized Territory

SYLLABUS:

A school bus available for transportation of Indian children to public schools can not be used for transportation of Indian Reservation residents to religious services but may be used for transportation to non-religious activities such as to the Job Corps Center.

FACTS:

The State of Maine Department of Education has a school bus for the conveying of Indian children during the regular school year to public schools, which are located off the Indian Reservation. The Department has been requested to allow use of the bus for transportation to religious services and to the Job Corps Center of children and other residents of the Reservation. The cost of operation and insurance is to be borne by the groups involved.

QUESTION #1:

Is it legal for this state property to be used for transportation of residents to religious services?

QUESTION #2:

Is it legal for this state property to be used for transportation of residents to the Job Corps Center?

ANSWER #1:

No.

ANSWER #2:

Yes.

REASONS #1:

The First Amendment to the United States Constitution states in part that:

"Congress shall make no law respecting an establishment of religion . . ."

This clause has been made applicable to the respective States by the Fourteenth Amendment of the Constitution. The "establishment of religion" clause means at least that neither a State nor the Federal Government can, openly or secretly, participate in the affairs of any religious organization or groups and vice versa, Everson v. Bd. of Education 330 U. S. 1, 15 (1947).

The First Amendment has erected a wall between Church and State which must be kept high and impregnable. McCullum v. Board of Education, 333 U. S. 203, 212, (1948).

Thus generally in this country it is constitutionally prohibited to use public funds (or the product) for the support or promotion of religious activities. Inasmuch as the bus was purchased by funds raised by taxation of the public; it is not proper to use the bus for transportation to and from religious services.

REASONS #2:

Where the vehicle is available and the proposed use involves transportation to the Job Corps Center, that use is not for a religious purpose. Too, the costs of operation and insurance are to be paid by the groups involved. Permitting such a use as an alternative to non-productive idleness has been accepted provided such usage has the approval of the appropriate school authorities, i.e., those persons charged with the custody and care of school property. See Atty. Gen. Rep. March 14, 1963.

GKC/mf

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