

# MAINE STATE LEGISLATURE

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February 13, 1935

Hon. Lucius D. Barrows  
Chief Engineer  
State Highway Commission  
Augusta, Maine

Dear Sir:

I have before me a copy of a letter of April 24, 1933, addressed to me by you, the original having never reached me or else having been mislaid without coming to my attention. In your letter you ask for a construction of two paragraphs immediately following the blanket road resolve of 1933, being Chapter 215 of the Resolves. With respect to the two paragraphs you propose three questions as follows:

1. Under the provisions of this resolve, can towns which have overexpended state aid funds be reimbursed more than the two units provided for in the Kitchen-Friend emergency highway bill as finally enacted?
2. If so, shall the above towns which have overexpended more than two units of their state aid joint fund be reimbursed in accordance with "the revised statutes" in effect previous to 1933?
3. An if so, shall the apportionments to other towns be reduced if necessary to take care of the towns which have overexpended?

Questions 1 and 2 seem to involve the same proposition, that is, whether the two paragraphs are to be construed in the light of the revised statutes existing before the passage of the so-called Kitchen-Friend bill, or in the light of the revised statutes as amended by that bill. Obviously a strict construction would force the interpretation that the revised statutes intended were those as they existed after the passage of the blanket resolve.

Since such a construction would render the said two paragraphs useless, it is necessary to resort to extrinsic aid in order to arrive at the intention of the legislature. For the history of the legislation it is well to remember that the end sought in the said two paragraphs was attempted to be attained by inserting a somewhat similar provision in the Kitchen-Friend bill in its original form. The provision in the Kitchen-Friend bill was eliminated and we next find the provision embraced in the two paragraphs appearing in the blanket resolve.

L.D.B.

State Highway Commission, Feb. 12, 1935, Page 2

The condition to be remedied existed in several municipalities, which municipalities had overexpended on the belief that they would be reimbursed by the State the following year with money for state aid purposes given to the municipalities on the basis, in some instances, of \$5 for one. Upon the passage of the Kitchen-Friend bill the proportion was reduced to \$2 for one, and certain municipalities were faced with obligations which they felt they should not bear. Obviously, the legislature intended to correct this condition and to allow those municipalities to receive from the State state aid money in the same proportion that they had been receiving it prior to the passage of the Kitchen-Friend bill.

Accordingly, in the light of the history of the legislation showing the condition which was sought to be remedied, and in view of the fact that any other construction would render the two paragraphs unnecessary and unavailing, I am of the opinion that it was the intention of the legislature, in referring to the revised statutes, to designate the statutes as they existed prior to the passage of the Kitchen-Friend bill. It is an accepted rule of construing statutes that where obviously a mistake has been made in referring to other laws the Court will search out the laws intended and give effect as though no mistake had been made.

Viewing the two paragraphs in the light of this construction, it necessarily follows that those municipalities who have incurred obligations or made expenditures in anticipation of aid from the State for state aid highways constructed by them are entitled to receive from the State, from the general highway fund on the basis of \$5 for one, until such time as the obligations are paid or reimbursement made for expenditures.

In answer to your third question, it necessarily follows that if the fund is not sufficient to take care of the municipalities referred to on a \$5 for one basis, and the remaining municipalities on a \$2 for one basis, there must be a scaling down of apportionments to all so as to give the nearest approximation possible to the intention of the legislature.

While this construction may work a hardship upon those towns which did not overexpend, nevertheless it is to be presumed that the legislature realized the possibility that such might be necessary and realizing the necessity, it was within the power of the legislature to pass the resolve containing the above two paragraphs.

Very truly yours,

Attorney General