

# MAINE STATE LEGISLATURE

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STATE OF MAINE

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REPORT

OF THE

ATTORNEY GENERAL

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for the calendar years

1941--1942

May 13, 1941

From:  
Frank I. Cowan, Attorney General

To:  
Henry P. Weaver, Chief  
Maine State Police

I have your letter of May 2nd in regard to Chapter 211 of the Public Laws of 1937, stating that some of the Judges hold that in order to convict a person of reckless driving, under subdivision (a) it is necessary that some injury be caused.

Webster's Dictionary gives the following definition of the word "reckless":

"1. That does not reck of one's duty, character, life, or the like; now usually, careless; neglectful; indifferent; inconsiderate; . . .

"2. Characterized by or manifesting lack of due caution; rash, utterly heedless; . . .

"Syn.—Heedless, careless, thoughtless, regardless."

It seems to me that when the Legislature used the word "recklessly" in subdivision (a), it used it in its ordinary meaning as evidenced by the above definition, and that subdivisions (a) and (b) were set up to establish two distinct categories. Under subdivision (a), a person should be convicted of driving recklessly if his driving has been of a sort to come within Webster's definition, even though no damage has been caused. Subdivision (b) may have been inserted to cover cases that might arise where the evidence would be a little bit weak on the reckless driving, but where the lax conduct of the respondent has been combined with an actual damage to property.

I can't see any justification in the wording of the Act for a holding that actual damage is necessary before a respondent can be held guilty of reckless driving.

F. I. C.

May 16, 1941

From:  
Frank I. Cowan, Attorney General

To:  
Bertram E. Packard, Commissioner of Education

I have your letter of April 25th in regard to exclusion of children from school by local school boards.

R. S., Chapter 19, Section 32. "Every child between the said ages (of 5 and 21 years) shall have the right to attend the public schools in the town in which his parent or guardian has a legal residence, *subject to such reasonable regulations as to the numbers and qualifications of pupils to be admitted to the respective schools and as to other school matters as the superintending school committee shall from time to time prescribe.*"