

# 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

October 21, 1941

Stillman E. Woodman, Chairman  
State Highway Commission  
Augusta, Maine

Dear Sir:

*In re Interpretation of Section of Chapter 69 of the Private and Special Laws of 1941, entitled "An Act Creating the Maine Turnpike Authority"*

A careful examination of the whole Act discloses that the Legislature intended that a close relationship should exist between the Maine Turnpike Authority and the State Highway Commission. The statute further provides that the Turnpike Authority shall be entirely self-supporting. It provides, in Section 13, for the issuance of interim certificates to be exchanged later for bonds when issued, and with no apparent limitation on the use of the proceeds of said certificates providing said proceeds shall be used for carrying out the purposes of said Turnpike Authority Act.

Section 15 recognizes that the Authority may be put to expense in making preliminary studies of the problems involved and in making preliminary surveys prior to the time that there shall be any income from grants, bonds or revenue and permits them to incur such expense up to \$10,000, which is to be charged against the highway funds of the State, and the Highway Department has no power of recovery of the amount so advanced and so expressly limited to \$10,000.

The Highway Department is not authorized to advance any money in excess of said \$10,000 for any purpose in connection with the acts of said Turnpike Authority, but is directed by the second part of Section 15 to assist the Authority with its engineering and advisory service "so far as the same are available", up to the time that the Turnpike Authority acquires funds from grants, bonds or revenue. There is nothing in the Act as a whole or in Section 15 when read with the whole Act that empowers the State Highway Commission to make its engineering and advisory service available for the Turnpike Authority in precedence of any other demands that may exist on said engineering and advisory service. Otherwise, the whole cost of the engineering and advisory service could be thrown on the State. This financial burden is one that the Legislature has not placed on the State and the Highway Commission has no authority to assume it.

However, insofar as the engineering and advisory service of the Highway Department are available without cost to the State and without diverting those services from other State projects, they are made available for the Turnpike Authority up to such time as the Turnpike Authority has received money from grants, bonds or revenue sufficient to take care of engineering and advisory service. Any such engineering or advisory service furnished by the State Highway

Department is to be charged at a fair rate against the Turnpike Authority and the Turnpike Authority must pay the State for such services, "as all other costs of said Turnpike".

Attention can be called to Section 13 of the Turnpike Authority Act which provides a method by which the Authority can raise temporary funds.

Very truly yours,

FRANK I. COWAN  
Attorney General

October 29, 1941

From:  
The Attorney General

To:  
The State Highway Commission

I have your query of instant date in regard to bills rendered by the Department of Audit.

Inasmuch as Chapter 27, P. L. 1941 expressly provides that the Highway Department shall pay 30% of the cost of audit of the various Courts, and inasmuch as in case of a payment to be made by one department of the State to another department, the department paying is chargeable with knowledge of the reason for making the payment, and with the accuracy of the payment approved, it is your duty to require an itemized statement from the Department of Audit in each case where you are billed for services of that department.

FRANK I. COWAN  
Attorney General

October 30, 1941

Harry V. Gilson, Esquire  
Commissioner of Education  
Augusta, Maine

Dear Mr. Gilson:

In response to your inquiry of October 22nd, relative to the responsibility for tuition charges based on permanent residence, I am pleased to inform you that it appears, in the instant case, that the whole case depends on the domicile of the parents of the pupil, Leola Meses, whose parents, within the year, moved from Friendship to Newcastle; who claim to own property in Friendship and claim that town as their legal residence.