

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1945-1946

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February 26, 1946

To Earle R. Hayes, Secretary, Employees' Retirement System
Re: Status of Certain State Employees, If Employed by the Maine
Turnpike Authority

I acknowledge receipt of your memorandum of February 13th relating to the above subject matter, in which you propounded the following questions:

"1. Is the Maine Turnpike Authority, as created by Chapter 69 of the Private and Special Laws of 1941, an agency of the State Government as defined in Subsection III of Section 1 of Chapter 60 of the Revised Statutes?"

I am of the opinion, after reading the statement of facts in your memo of February 13th, that the interpretation of Subsection III of Section 1 of Chapter 60, R. S. 1944, would not be of material benefit for the purposes of your memorandum. For that reason I do not give an answer to question 1.

"2. Should any of the employees of the State Highway Commission transfer their employment to the Maine Turnpike Authority, could they maintain their membership and preserve all of their rights under the terms of the Employees' Retirement System Law?"

My answer to question #2 is in the negative for the reason that the legislature has not made any provisions or appropriated any funds for State contributions for the employees of the Maine Turnpike Authority in order that they may become members of the Retirement System.

"3. In the event a person retired under the provisions of the Employees' Retirement Act is employed by the Maine Turnpike Authority, would such employment in any way jeopardize such a person's retirement benefits?"

My answer to question #3 is in the negative. My reason therefor is set forth in the answer to question #2.

You state in the last paragraph of your letter: "It seems hardly reasonable to suppose that the Legislature intended that certain employees of the Highway Department could and should be taken over by the Maine Turnpike Authority and at the same time deprive them of their rights as a State employee under either the Personnel Law or the Employees' Retirement System Law."

In this connection I wish to say that the Turnpike Authority was created by the 90th Legislature at its regular session and the Act was approved April 17, 1941. The Employees' Retirement Act was passed at a special session of the 90th Legislature held in January, 1942, and the Retirement Act became effective January 24, 1942 as to administrative provisions, and effective July 1, 1942 as to the rest of the Act.

Furthermore, the only money that the Turnpike Authority will have for administrative purposes will be from the sale of bonds, and said bonds are not to be deemed a debt of the State of Maine or a pledge of the faith and credit of the State of Maine, and the State of Maine is not obligated to pay the bonds or any interest thereon except from tolls, and the issuance of these Turnpike bonds does not directly or indirectly obligate the State to any form of taxation whatever or to make any appropriation for the payment thereof.

It is my opinion therefore that it was not the intention of the legislature that the Turnpike Authority employees should come within the purview of the Employees' Retirement System Act.

RALPH W. FARRIS
Attorney General

March 7, 1946

To Laurence C. Upton, Chief, Maine State Police

I have your memo of March 6th in regard to the question relating to the penalty for violation of Chapter 306 of the Public Laws of 1945. The penalty under that section is as follows:

"Whoever is required to make a report as herein provided and fails to do so, or wilfully fails to give correct information. . . shall be deemed answerable to the secretary of state, and the secretary . . . may suspend or revoke the operator's license of such person or the certificate of registration, or both. . ."

That is the penalty for violation of Chapter 306. You will note the word "wilfully" is used in the language of this penalty, and of course it is a very severe penalty for the operator or owner of a motor vehicle to have his license and registration certificate revoked. I call your attention to this fact because it indicates that the legislature intended it to be a penalty for the violation of this chapter.

If you will look at Section 136 of Chapter 19, R. S. 1944, which provides the general penalty for violation of the motor vehicle laws where there is no other penalty provided, you will find that it reads as follows:

"Whoever violates or fails to comply with the provisions of any section of this chapter or any rules or regulations established thereunder, *when no other penalty is specifically provided*, shall be punished by a fine of not more than 90 days, or by both such fine and imprisonment."

You state that at least one court has taken the position that a person who fails to report an accident to the Chief of the State Police, as required by the terms of this statute, cannot be prosecuted in the criminal court, and undoubtedly the judge of this court had in mind that, where a specific penalty is provided, the violator of the provisions of Chapter 306, P. L. 1945, would not come within the provisions of Section 135 of Chapter 19, R. S. 1944, which contains the wording, "when no other penalty is