

MAINE STATE LEGISLATURE

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March 4, 1947

To Honorable Guy H. Sturgis, Chief Justice, Supreme Judicial Court
Re: Highway Bonds - Reissuance.

Dear Guy,

I want to congratulate you upon your seventieth birthday yesterday and hope you had an enjoyable day. I was pleased when I had the conference with you last Thursday to see you looking so well and seeming like your old self. I enjoyed my legal visit with you.

I have conferred with some of the Senators who were considering the introduction of an Order in the Senate propounding certain constitutional questions to the Justices of the Supreme Judicial Court, and they are in the process of ironing out their differences and the questions may not be forthcoming. However, in case they are, I am enclosing as I agreed at your office six copies of the Constitution of Maine in pamphlet form, which have been marked so that the data on the questions will be available if the questions do come.

After I left you last Thursday, I went to the hotel and drew up in long hand a proposed Amendment which I had copied at the office, and I herewith enclose a copy which embodies some suggestions that you made of which I have taken advantage in clarifying Article LVIII of the Constitution. I have underlined the language which would clarify the question of whether or not bonds could be issued by stating in the proposed Amendment that new bonds can be issued in the place of the old bonds while keeping the ceiling of \$36,000,000 which Article LVIII indicates now; but after deducting the \$5,000,000 on page 44 of the Constitution, the ceiling would be \$31,000,000. In the new proposed Amendment I left out the \$5,000,000, which is water over the dam.

Upon investigation I find that in 1955 the total of highway bonds issued and outstanding was \$28,308,500. The amount of bonds issued and outstanding as of December 31, 1946, was \$14,009,500.

The trend of thought by one faction in the legislature is to curb our bonded indebtedness and raise money by increasing the gas tax and match federal aid, rather than issue bonds. Another faction believes in issuing bonds and then getting the tax money afterwards to retire same.

The Congress in 1944 passed the Federal Highway Act, so called, and the apportionment made to the State of Maine was based on the fiscal years, 1946 and 1947. In 1946 the federal government apportioned for the federal-aid highway system \$1,948,954; for secondary or feeder roads, \$1,404,017; and for urban highways, \$560,538, making a total of \$3,013,509. In 1947 the government apportioned for the federal-aid highway system, \$1,948,844; for secondary or feeder roads, \$1,403,942; and for urban highways \$560,538, making a total of \$4,913,324 for the year, and of \$7,826,833 for the two years. The federal share of the cost of construction projects is limited to 50%, except that the federal share of the cost of rights of way is limited to 1/3, so that the State pays one-half of the

cost of construction and engineering and two-thirds of the cost of rights of way.

The Legislature of 1945 enacted laws which authorized sufficient funds to match one-half of the total federal aid to be apportioned to the State for the three post-war fiscal years, 1946, 1947 and 1948, which is the total of the authorizations of the federal-aid highway act of 1944.

The total of State matching funds authorized is \$5,953,000, of which \$3,453,000 is to be provided through a reissuance of highway bonds during the biennium ending June 30, 1947, and an apportionment of \$2,500,000 from the unappropriated general highway funds surplus during the same period.

According to the Federal-Aid Highway Act of 1944, the apportionment of federal aid for each fiscal year must be obligated by agreement with the Commissioner of Public Roads not later than one year after the end of the fiscal year for which it was apportioned, which means that all new authorizations of State matching funds must be in force before June 30, 1949.

I have been advised by Mr. Barrows, Chief Engineer of the State Highway Commission, that there is an act now pending in Congress providing for the extension of the time to June 30, 1950, so as to give the States more time to provide the funds for matching federal aid.

As I said when talking with you last Thursday, I do not feel that I can approve of a reissue of highway bonds which were issued prior to September 28, 1925, in case they should pass these two proposed acts, copies of which I left with you, one of which was an amendment of the 1935 act, and the other a provision for reissuing bonds without citing any constitutional authority for reissuing same. I feel, after talking with you, that the amendatory language in the Constitution struck out all preceding amendments relating to this matter, and the only one now in effect is Article LVIII, which was the last Amendment of 1935, to be found on page 43 of the pamphlet of the Constitution.

I have already told some Senators my feeling in the matter and I believe they will withdraw these two proposed bills for reissuing of bonds which have been retired prior to September 28, 1925, and work out some other program.

I will keep you in touch with the matter from time to time, if it looks as though questions will be coming from the legislature, to the Supreme Court.

Sincerely yours,

Ralph W. Farris
Attorney General

RWF:c