

MAINE STATE LEGISLATURE

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STATE OF MAINE

R E P O R T

OF THE

ATTORNEY GENERAL

for the calendar years

1949 - 1950

May 23, 1950

To Col. Francis J. McCabe, Chief, Maine State Police
Re: Operation of Farm Tractors without License

In your memorandum of May 5, 1950, you ask the following questions:

1. Is it permissible for a person who has been convicted of Manslaughter and whose right to operate a motor vehicle has been suspended by the Secretary of State, under Section 122 of the Motor Vehicle Laws, to operate a farm tractor, as provided in Section 13 of the Motor Vehicle Laws?
2. Does Section 13 of the Motor Vehicle Laws regarding the operation of farm tractors without license or registration apply to the owner's relatives or hired man?
3. If a person's right to operate motor vehicles is suspended after such person has been convicted of Drunken Driving, is he permitted to operate farm tractors under Section 13 of the Motor Vehicle Laws?

The Attorney General and I have conferred on your memorandum and have arrived at the following conclusions:

1. We believe that the action taken by the Secretary of State under Section 122 of the Motor Vehicle Laws in revoking a license upon conviction of manslaughter refers to the right to operate a motor vehicle on the public ways of this State, and that since no registration or license is required for the operation of a farm tractor when the same is used solely for farm purposes pursuant to the provisions of Section 13, an individual whose license has been revoked may operate a farm tractor within the limits of Section 13.
2. Farm tractors may be operated without license or registration by the owner's relatives or hired men from or to the premises where the tractor is kept, to or from a farm lot and between farm lots used for farm purposes, by the owner, meaning the owner of both the tractor and the farm.
3. The answer to Question 1 would be the same for Question 3.

JOHN S. S. FESSENDEN
Deputy Attorney General

May 23, 1950

To Fred L. Kenney, Director of Finance, Department of Education
Re: §92-D, Chapter 37, R. S. 1944

Reference is made to your memorandum of 31 March, 1950, in which you ask an interpretation of the phrase "exclusive of refundings" as it appears in Section 92-D of Chapter 37, R. S. 1944. You ask whether or not this wording "might permit the establishing of indebtedness with *no limit* by calling certain series of bonds for payment, issuing new bonds to cover refunding and then proceeding to issue more bonds to make up the maximum of 5% of the total valuation of all the participating towns."

From a careful reading of the statute it becomes evident why you should ask this question, since it appears that the statute could be construed in that light. Of course, the procedure contemplated in your question could not be followed, if pursuant to Section 92-A, the town in taking action on the articles prescribed by that section had excluded the phrase "exclusive of refundings" in its third article.

Any comment that this office may have to make in the way of an interpretation of the meaning of the phrase is largely academic, since I can conceive of no circumstance under which, in this connection, an opinion from this office would have any official persuasive authority. Our reasons for this thought are that the point of law, if it arises, is bound to arise between the community school district trustees and the financial institution or institutions contemplating a loan to the district or the purchase of the district's bonds, whereupon as a practical rather than an academic matter the decision or interpretation will be reached by the attorneys for the financial organizations interested.

May I point out that the history of legislation in Maine, as well as court decisions, both with respect to municipalities and with respect to borrowings for State highways, is nearly uniformly along the line of placing limits on the borrowing authority and that unless the intention is clearly expressed to have no limit or loose limits, I should personally favor a construction resulting in a limit upon borrowing authority.

JOHN S. S. FESSENDEN
Deputy Attorney General

May 29, 1950

To Honorable Frederick G. Payne, Governor of Maine
Re: National Highway Safety

I have your memo of May 19th asking me to go over a letter which you had addressed to John M. Gleason, Chairman, State and Local Officials' National Highway Safety Committee, in answer to his letter of May 17th.

It is my opinion after reading his letter and your reply thereto that your statement is legally correct, that it would require legislative action, as we have no specific appropriation for the purpose in question.

While I feel that this is a meritorious service which the National Highway Safety Committee is performing, yet if the Governor and Council dip into the contingent fund to carry on private enterprises outside the State, even though they are meritorious and indirectly benefit the State, there would be no end of calls upon you from similar organizations to finance their support. However, in the seventh paragraph of Mr. Gleason's letter he states, "The Committee has been assured that such subscriptions by the States will be matched by Federal funds available for certain types of highway safety work in cooperation with the States. Full control of policies and activities, however, will be retained by representative State and local officials who compose the Committee."

Our statute is in reverse in regard to authorization for the State to accept Federal grants. Section 14 of Chapter 12 provides that the Governor and Council can accept Federal funds or any equipment, supplies or materials