March 20, 1956

To Paul A. MacDonald, Deputy Secretary of State
Re: Revocation of Driving License after Lapse of Considerable Time

We have your memo of March 19, 1956, in which you set forth the following fact situation:

"Around the middle of February, an insurance investigator approached Miss Mazie Stone, Chief Clerk in our Court Records Section, with reference to examining the motor vehicle record of the above. Although his record with us indicated a number of minor motor vehicle convictions and warnings, his record did not indicate any convictions for driving under the influence of intoxicating liquor. The investigator informed Miss Stone that our record was incomplete in this respect and told her that Mr. X. had been convicted in the Augusta Municipal Court of driving under the influence of intoxicating liquor in 1946.

"She wrote to the Augusta Municipal Court on February 16, 1956 and promptly received an abstract from the Court showing that X. had been convicted in the Augusta Municipal Court of driving under the influence of intoxicating liquor on September 10, 1946.

"Section 150 of Chapter 22 of the Revised Statutes provides that the license or right to operate motor vehicles of any person convicted of violating the provisions of this section shall be revoked immediately by the Secretary of State upon receipt of an attested copy of the court records without further hearing. Relying upon this section Mr. X.'s 1956 operator's license was revoked on February 21, 1956."

Section 150, relating to the operating of motor vehicles while under the influence of intoxicating liquor or drugs, reads in part as follows:

> "The license or right to operate motor vehicles of any person convicted of violating the provisions of this section (driving under the influence) shall be revoked immediately by the secretary of state upon receipt of an attested copy of the court records, without further hearing."

We are of the opinion that under the circumstances set forth above there is no warrant for revoking Mr. X's license.

We realize that statutes of limitation or limitations of action do not run against the State, unless in a particular case the law so provides and that in this case there is no statute prohibiting the State from revoking Mr. X.'s license under the provisions of Section 150.

We are aware, however, that there is another theory, termed "laches", which we feel is present in the instant case.

The passing of time creates a presumption that things have been accomplished in the ordinary manner, and there is a feeling of the people that peaceful report is in many instances more agreeable than unending litigation.

Thus the purpose of statutes of limitations and the theory of laches are both designed to fix a limit within which an action must be brought. Both statutes of limitations and the theory of laches have as a reason for their existence the question of public policy. The principle of laches differes from a statute of limitations in that there must appear in addition to lapse of time some circumstances from which the defendant or some other person may be prejudiced, or there must be such lapse of time that it may be reasonably supposed that such prejudice will occur if the procedure is allowed.

Following the public policy above referred to, which gave rise to the statute, and the theory of laches, we are of the opinion that the lapse of time from the date of conviction to the present time has been so great that the prejudice to be suffered is obvious and action at this date, in the form of revoking the 1956 license for a 1146 offense, is not warranted.

It is suggested that a measure by which you may guide yourself in such matters would be a term similar to that beyond which the State surrenders its sovereign right to prosecute for the offense -- six years.

James Glynn Frost
Deputy Attorney General

JGF:c