

MAINE STATE LEGISLATURE

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May 29, 1956

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To Captain John de Winter, Maine State Police
Re: Complaint, Speeding, Maine Turnpike

Enclosed you will find the two draft complaints which you left at the office on May 28th, requesting our analysis and opinion. I have reviewed the same and drafted something along the same line, borrowing from both and adding ideas of my own. . .

I first point out that Rule No. 1 of the Maine Turnpike Authority has been copied from the drafts you gave me. Whitehouse and Hill, in Directions and Forms of Criminal Procedure, the leading work in Maine in this field, says that a private statute must be copied verbatim in a complaint or indictment, and for my part I should carry this rule over, where rules and regulations are claimed to have been violated. A variance between the original and that incorporated in the complaint will be fatal unless the variance is such that it does not alter the sense of the rule. The rule should be checked carefully to see that it is properly incorporated in the complaint, and with this there should be no reason why there should be any variance at all.

You should, further, include the time that the rule was adopted and published by the Turnpike Authority. This is necessary, as it will show that the rule was in effect on the day of violation, along with the allegation that the rule remained in full force and effect.

Of course all these things must be proved in a given case.

We trust that this form may prove of some assistance to you. We cannot guarantee that it will withstand every legal attack, but we hope that it will.

Roger A. Putnam
Assistant Attorney General

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