

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1959 - 1960

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May 27, 1959

To: Honorable Clarence Parker
Senate Chambers
State House
Augusta, Maine

Re: Parking in Municipalities

Dear Senator Parker:

In reference to my letter to you of May 1st regarding L. D. No. 1228, applying the tests relating to prima facie presumptions, it was my opinion that the proposed statute would be unconstitutional. My opinion was based on the factual determination that there was no rational connection between the unlawful parking and the presumption that the registered owner was the party responsible, and further that such legislation would shift the burden of proof to the respondent.

A further study of the law indicates that a majority of the courts of this country have held that there *is* a rational connection between the fact in evidence and the conclusion drawn *in those cases dealing with municipal parking*. These decisions are based upon the difficulty of proof of the person operating the automobile at the time of the violation and the public inconvenience to be averted. *The cases considered do not attempt to use this same logic in justifying an inference of a crime of a more serious nature, even that of speeding.*

Therefore, I feel compelled to explain to you, that by using the same reasoning as the courts did in arriving at a factual determination, my opinion is at a variance with these court decisions.

Very truly yours,

FRANK E. HANCOCK
Attorney General

June 1, 1959

To: Cyril M. Joly, Chairman
Industrial Accident Commission
State House
Augusta, Maine

Dear Sir:

In reply to yours of May 26, 1959, to the Attorney General, in reference to the legal status of Soil Conservation Districts in the State of Maine.

It is the opinion of this office that the Districts referred to are individual corporations and could rightly be considered assenting employers under Section 2, III, of the Workmen's Compensation Act.

The employees of such districts are not presently employees of the State.

Very truly yours,

NEAL A. DONAHUE
Assistant Attorney General