

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calender years

1965 - 1966

to make the application for the Federal grant. Again, the Town of Windham has been authorized by the Maine School Building Authority to construct the project and its attending sewage disposal plant. The Town of Windham, in view of the applicable Maine Statutes, possessed the requisite "estate or interest in the site of the project" which authorized it to make the application for the reference Federal grant.

In our reading we have included an examination of the pertinent provisions of the Maine Statutes as they pertain to the Water Improvement Commission. *38 M.R.S.A. § 361, et seq.*

It is to be noted that we have not been apprised of the contents of the application made by the Town of Windham and of the statement therein relative to § 3: legal information. And it is to be further understood that this opinion predicates the right of the Town, to make application, upon the fact that the Town possesses the requisite estate or interest in the site of the project; and not upon the element of ownership. Of course, we realize that our opinion is not binding upon the Federal authorities.

JOHN W. BENOIT
Assistant Attorney General

June 10, 1965
State

Kenneth M. Curtis, Secretary of State

Eligibility for Restoration of Operator's License

FACTS:

An individual was convicted of driving under the influence in 1948, 1954, and in June, 1963. He sought a pardon for the 1954 conviction in 1965. It was granted. He then sought restoration of his license.

In 1959, the legislature passed the so-called "10-year" law. It was repealed in 1963; the repeal became effective in September, 1963. Because the 1963 conviction and suspension was prior to the repeal of the so-called "10-year" law, it was understood that upon pardon of the 1954 conviction the person would have only the 1963 conviction on his record and so would be eligible for restoration of his operator's license.

QUESTION:

Is this individual now eligible for restoration of his operator's license?

ANSWER:

No.

REASONS:

Chapter 144 of the Public Laws of 1959 amended the last sentence of the next to the last paragraph of section 150, chapter 22, R. S. 1954, to read as follows:

"For the purpose of this section in case a person has been convicted one or more times prior to the 13th day of July 1929 of a violation of the provisions of

this section, such previous conviction or convictions shall be construed as one conviction *only those prior convictions had within the 10 years immediately preceding a conviction shall be considered.*”

This provision as amended affected (1) the sentence and (2) the right to operate. The court, when a person appeared on a “driving under the influence” charge could ignore any convictions for that offense more than 10 years previous. Your office on revocations or restorations could do likewise. By our opinion of August 14, 1959, persons convicted after September 12, 1959, only, could have this advantage as the 1959 amendment was prospective only.

Chapter 261, P.L. 1963, repealed the sentence as amended in 1959. This action removed the benefit given to the multiple offender. The repeal would be prospective only. In other words, an offender, when he appears in court or before your deputy after September 21, 1963, is governed by the law as it appears at the time of such appearance.

It must be borne in mind that we are here dealing with a license law. No vested right is granted a licensee. The legislature may at any time change licensing conditions. It has done so in this instance. The individual here involved gained a benefit in 1963 when convicted. He was sentenced and his license revoked on the basis of a second conviction, to wit, 1954 and 1963, rather than a third conviction.

Presently, the pardon of the 1954 conviction leaves him in the same position. He is presently considered as a person applying for restoration based upon two prior convictions, to wit, 1948 and 1963. A petition for restoration cannot be entertained until 1966.

GEORGE C. WEST
Deputy Attorney General

June 18, 1965
Soil Conservation Committee

Charles L. Boothby, Exec. Sec.

FACTS:

At the present time several towns and soil conservation districts are prime sponsors of small watershed projects under P.L. No. 566, the Watershed Protection and Flood Prevention Act. As sponsors, they are required to administer contracts for the construction of works of improvement, including flood control dams.

State funds are involved to the extent that the State Soil Conservation Committee reimburses the sponsors 50% of the cost of legal fees, easements, rights-of-way, and, upon request, furnishes the services of the Executive Secretary as Contracting Officer.

All plans, specifications, standards, and drawings, bid forms and regulations are prepared by the Soil Conservation Service, U.S. Department of Agriculture.

QUESTION:

Is such action by the sponsors of Small Watershed Projects subject to the provisions of Title 5, Sections 1741 to 1776 as pertains to the Bureau of Public Improvements?

ANSWER:

Yes.