

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calender years

1965 - 1966

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Chapter 261, P.L. 1963, repealed the sentence as amended in 1959.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.

REASON:

Title 5, section 741, defines "public improvements" as, "... the construction, major alteration or repair of buildings or public works now owned or leased or hereafter constructed, acquired or leased by the State of Maine or any department, officer, board, commission or agency thereof, or constructed, acquired or leased, in whole or in part with state funds."

The facts relate to the building of "works of improvements, including flood control dams." Certainly such construction comes within the meaning of "public works" as quoted above. The legislature appropriates funds to the State Soil Conservation Committee. In turn, some of these funds are allocated to the districts. See Title 12, M.R.S.A., section 201. Such funds allocated to the districts are, of course, state funds.

12 M.R.S.A., Sec. 3, 2, defines a "district" or "soil conservation district" as "an agency of the state." A soil conservation district, being an agency of the state, any public improvements which it constructs must be subject to the provisions of Title 5, M.R.S.A., sections 1741 to 1776.

GEORGE C. WEST
Deputy Attorney General

June 29, 1965
Treasury

Eben L. Elwell, Treasurer

Investment of Excess Moneys and Retirement System Funds

Reference is made to your letter of June 23, 1965, asking about the legality of investing certain state funds.

FACTS:

On July 1, 1965, the State will sell bonds duly authorized for use in water improvement facilities. Some part of the proceeds of this sale cannot be used until after July 1, 1966. See P & S 1965, ch. 129. Thus, there will be excess money in the State Treasury and the Treasurer is desirous of investing some of the proceeds of the sale of bonds in notes insured by the Farmers Home Administration.

QUESTION:

Are notes insured by the Farmers Home Administration and assigned to said agency a proper investment for excess moneys in the State Treasury?

ANSWER:

Yes.

OPINION:

5 M.R.S.A. 135 states in part:

"When there are excess moneys in the State Treasury which are not needed to