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*Maine Turnpike Speed Limit Enforcement
Speed Limits Maine Turnpike*

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February 1, 1978

Colonel Allan H. Weeks
Commissioner of the Department
of Public Safety
Hospital Street
Augusta, Maine

Re: Enforcing the Speed Limit on the Maine Turnpike by
Clocking Motor Vehicles.

Dear Colonel Weeks:

In your memo of January 3, 1978, you have asked for advice regarding the legal complications of enforcing the speed limit laws by clocking the times at which a motor vehicle enters and exits from the turnpike.

At the outset, I should indicate that providing you with a thorough response to your question is somewhat difficult given the fact that we are not dealing with a specific statutory proposal. In view of the absence of a concrete proposal, an assessment of the constitutionality of a system of clocking vehicles on the turnpike in order to determine whether a violation of the speed limit has occurred is virtually impossible. Moreover, in evaluating the legality of such a system, we are hampered by the fact that there is no guidance from other jurisdictions. In response from an inquiry from this office, Mr. William Rusch of the International Bridge, Tunnel and Turnpike Association indicated that he does not know of any turnpike in the United States that employs a system such as the one you have described.

In your letter to Governor Longley, dated December 28, 1977, you have referred to many of the potential legal problems that could result from the establishment of a clocking system to enforce the speed limit. Presumably, the act of "speeding" in this context would constitute a traffic infraction. (See 29 M.R.S.A. 1[17-c].) Under present law, toll takers on the Maine Turnpike are not law enforcement officers and therefore

have no authority to issue citations for traffic infractions. (See 17-A M.R.S.A. §§ 2[17] and 17[1].) See also 29 M.R.S.A. § 2300. Of course, the Legislature, by an appropriate statutory provision, could grant toll collectors the authority to enforce this type of infraction.

A clocking system would also present evidentiary problems in proceedings to enforce these infractions. There would appear to be no way of determining whether the person operating a motor vehicle at the time it leaves the turnpike is the same person who was operating it while it was speeding. It can be argued, of course, that the Legislature could provide for a "presumption" or an "inference" of continuous operation. Whether such a "presumption" or "inference" would be constitutionally permissible cannot be determined at this time since its reasonableness would depend upon such variables as the number of occupants in the vehicle and the distance travelled. However, even with the benefit of this legislatively created presumption, toll takers would have to appear in court to identify the person who was operating the motor vehicle at the time it exited from the turnpike.

Obviously, in order for a system such as the one you have described to be effective, an integrated timing system would have to be established along the turnpike. This would necessitate the installation of synchronized and calibrated clocks at all toll booths since simple punch clocks (currently in use on the turnpike) would not be accurate enough. In any prosecution under such a "clocking" scheme, a defendant would be free to attack the accuracy of the timing devices. This evidentiary problem could be minimized to an extent by the enactment of a provision providing that the computation of a vehicle's speed based upon this timing system would be accepted as prima facie evidence of the vehicle's speed. See, e.g., 29 M.R.S.A. § 1254 (speed measured by radar).

As a practical matter, however, it would appear that a motor vehicle operator who is travelling a substantial distance on the turnpike (for example, from York to the Augusta exits) and who wishes to exceed the speed limit, can circumvent the "clocking" system by simply destroying his ticket. He will be required to pay the full toll (which he would have had to pay in any event) yet he will have been free to exceed the speed limit as he travelled the length of the turnpike.

These are a few of the legal problems which I envision would be generated by the creation of a clocking system to enforce the speed limit on the turnpike. I would reemphasize that it is simply impossible to make definitive judgments about a general idea which has not been reduced to concrete terms.

I hope this information is helpful to you, and if you have specific questions regarding this matter, please feel free to contact me.

Sincerely,

Joseph E. Brennan
JOSEPH E. BRENNAN
Attorney General

JEB/ec