FORMAL OPINION

November 29, 1965

JUNE STRELECKI, *Director*
Division of Motor Vehicles
25 South Montgomery Street
Trenton, New Jersey

MEMORANDUM OPINION—NO. 2

Dear Miss Strelecki:

You have requested an opinion as to whether farm tractors and traction equipment may be registered under the provisions of N.J.S.A. 39:3-24(b).

It is our opinion for the reasons stated herein that farm tractors and traction equipment may not be registered under the provisions of this subsection but must be registered in accordance with the provisions of subsection (a) of N.J.S.A. 39:3-24. As a result, the fee for the registration of farm tractors and traction equipment shall be $3.00 per annum as provided by subsection (a), rather than the $1.00 per annum registration fee as provided for those motor vehicles which come under the purview of subsection (b).

N.J.S.A. 39:3-24 states:

> "(a) The director shall register farm tractors and traction equipment used for farm operation to travel upon the public highways. The fee for such registration shall be $3.00 per annum, whether the registration is issued for the yearly period or only a portion thereof. Such traction equipment or farm tractors may draw farm machinery and implements while in transit from 1 farm to another without additional registration therefor.
>
> "(b) The director may register motor vehicles, not for hire, used exclusively as farm machinery or farm implements, to travel upon the public highways, from 1 farm, or portion thereof, to another farm, or portion thereof, both owned or managed by the registered owned of the vehicle or vehicles. The fee for such registration shall be $1.00 per annum, whether the registration is issued for a yearly period or only a portion thereof. Any vehicle so registered pursuant to the provisions of 39:3-25 of this Title may draw not more than 1 vehicle used exclusively on the farm and a vehicle so drawn need not be registered."

The legislative history of N.J.S.A. 39:3-24(a) originated with the comprehensive provisions of Chapter 208 of the Laws of 1921. Chapter 208 embodied the recommendations of the Motor Vehicle Traffic Commission which was created by the 1920 Legislature for the purpose of investigating traffic conditions in this State, preparing a proposed uniform vehicle law, and suggesting registration or license fees for all types of vehicles using the public highways (Assembly Joint Resolution No. 1, 1920; Assembly Joint Resolution No. 8, 1920; Joint Resolution No. 2, 1920; Statement of Assembly Bill No. 483, 1921).

In 1920, many of the highways of this State were improperly constructed or not intended for the substantial increase of passenger and commercial freight-hauling vehicles resulting from the technological revolution of the automotive industry (Report of the Motor Traffic Commission, 1921). Therefore, Chapter 208, which reflected most of the recommendations of the Commission's Report, was concerned

primarily with the regulation and licensing of these kinds of passenger and commercial freight-hauling vehicles rather than with farm tractors and traction machines which were used only sparingly in farming operations during this period of time (L. 1921, c. 208). Inasmuch as the definition of a motor vehicle[1] applied, however, to farm tractors and traction machines, Section 21(9) of Chapter 208 provided:

> "The Commissioner of Motor Vehicles shall license farm tractors and traction machines not equipped with rubber tires[2] to travel upon the public highways at a speed not to exceed four miles per hour . . . in such manner as to present a smooth surface to the highways, and in accordance with such regulations as shall be adopted by the Commissioner of Motor Vehicles. The fee for such licenses shall be three dollars . . ."
> The statute continued:
> "The Commissioner of Motor Vehicles may in his discretion, allow such traction engines or farm tractors to draw agricultural machinery and implements while in transit from one farm to another without additional license therefor." (L. 1921, c. 208, §21(9), p. 643).

The only remaining "agricultural machinery and implements" which could have been referred to by the Legislature during this period were those machines that were incapable of being self-propelled, such as field tillers, lister plows, grain drills, disk harrows, soil pulverizers, fertilizer distributors and spreaders, threshers, reapers, mowers, wagons, combines, planters, harvesters, rakers, cultivators, and the like. *Smith, Farm Machinery and Equipment (4th ed.* 1955); *Stone and Gulvin, Machines for Power Farming* (1957). At the time of the enactment of Chapter 208, there was no reason to provide registration or licensing fees for other self-propelled vehicles used in agriculture because, for all practical purposes, these kinds of machines were not in existence.

In 1941 the Legislature enacted Chapter 31 providing for a $1.00 annual registration fee of motor vehicles used exclusively as farm machinery and implements. This law, which is the legislative source of N.J.S.A. 39:3-24(b), stated:

> "The commissioner may register motor vehicles, not for hire, used exclusively as farm machinery or farm implements, to travel upon the public highways from one farm, or portion thereof, to another farm, or portion thereof, both owned or managed by the registered owner of the vehicle or vehicles; provided, that no such vehicle shall traverse more than five miles of highway in traveling from one farm, or portion thereof, to another farm, or portion thereof; . . . and no such vehicle shall be operated on the highway between sunset and sunrise . . . and no such vehicle which is not equipped with rubber tires shall be operated at a speed exceeding four miles per hour . . . and no such vehicle shall draw any other vehicle except that, with the permission of the commissioner, it may draw not more than one vehicle used exclusively on the farm and in such case such drawn vehicle need not be registered.
> "The fee for such registration shall be one dollar ($1.00) per annum . . ." (L. 1941, c. 31, §1, p. 101; R.S. 39:3-24.1).

Within the two decades following 1921, there had been considerable improve-

ment and advancement of farm mechanization resulting in a substantial increase in the number and variety of farm machines that were self-powered and capable of being operated on the public highways while traveling from one farm to another. Therefore, farm machinery (*e.g.*, reapers, plowers, threshers, etc.) which heretofore *had been drawn* by tractors, could now operate as independent units (*Smith, Farm Machinery and Equipment, op. cit.*). In view of the significance of such technological changes and the intention of the 1920 and 1921 Legislature to provide license fees and regulations for all types of vehicles using the public highways, it appears forcibly that the enactment of Chapter 31 was prompted by these considerations.

Admittedly, in the absence of Section 21(9) of Chapter 208 of the Laws of 1921, it would appear that the common meaning of the phrase "motor vehicles . . . used exclusively as farm machinery or farm implements", as used in Chapter 31 of the Laws of 1941, would apply to "farm tractors and traction equipment". In order to reach a sound construction of legislative interpretation, however, resort may be had to its legislative history and prior statutes on the same subject. *Jersey City v. Department of Civil Service,* 7 N.J. 509, 522 (1951). "Thus, if the particular provision in question is part of a general legislative scheme, a consideration of the entire scheme together may make it apparent in what sense the particular provision was used. If one construction or the other is necessary to prevent conflict with other statutes, that construction which is consistent with legislative intent will be adopted." 3 *Sutherland, Statutory Construction* (*3d ed.* 1943), §5817, p. 108. As the Legislature is charged with knowledge of its own prior enactments, *Eckert v. New Jersey State Highway Department,* 1 N.J. 474 (1949). 2 *Sutherland, op. cit.*, §4510, p. 327, it must be assumed that Chapter 31 was enacted with legislative awareness that Chapter 208 of the Laws of 1921 (and its amendments) already provided a separate and distinct classification for the licensing of farm tractors and traction equipment. Otherwise, if it could be interpreted that farm tractors and traction equipment could be registered under the $1.00 fee provisions of Chapter 31 (hereinafter referred to as R.S. 39:3-24.1), then the $3.00 license provisions of Section 21(9) of Chapter 208 of the Laws of 1921 (hereinafter referred to as R.S. 39:3-24) would be completely ineffectual. Likewise the legislative enactment of 1947 amending some of the provisions of R.S. 39:3-24 would also be meaningless. Such an interpretation, therefore, would be contrary to the well-recognized rule that a "construction that will render any part of a statute inoperative, superfluous or meaningless, is to be avoided". *State v. Sperry & Hutchinson Co.*, 23 N.J. 38, 46 (1956).

In 1951, "farm tractor" was defined by the Legislature as a "motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry" (L. 1951, c. 25, §1, p. 122; N.J.S.A. 39:1-1). It may be argued that since "farm tractor" had now been defined by the legislature as a motor vehicle "used . . . as a farm implement", the use of the term "farm implements" in R.S. 39:3-24.1 must, inversely, include "farm tractors" as one of its objects. And, it is the general rule that when the Legislature has specifically defined a term, the courts are bound by the definition. *Eagle Truck Transport, Inc. v. Board of Review, etc.*, 29 N.J. 280, 289 (1959); *Fox v. Standard Oil Co. of New Jersey,* 294 U.S. 87, 55 S. Ct. 333 (1934). Like most rules, however, this one is not without its exceptions. In *Lawson v. Suwanee Fruit & S.S. Co.*, 336 U.S. 198, 201, 69 S. Ct. 503 (1949), the United States Supreme Court held that it was not bound to follow the statutory definition where obvious incongruities in the statute would be created, nor where one of the major purposes of the legislation would be defeated or destroyed. Interpreting farm implements, insofar as used in R.S. 39:3-24.1 as apply-

ing to farm tractors and traction equipment, would obviously defeat the purpose of R.S. 39:3-24. In light of these considerations, we conclude that the phrase "motor vehicles . . . used exclusively as farm machinery or farm implements" as set forth in the context of R.S. 39:3-24.1 must exclude from its scope "farm tractors and traction equipment".

In 1961, the Legislature amended R.S. 39:3-24 into three subsections. L. 1961, c. 71, p. 598. The $3.00 annual fee provision of R.S. 39:3-24 concerning farm tractors and traction equipment was stated in almost identical language under N.J.S.A. 39:3-24(a). Likewise, the $1.00 annual fee provision of R.S. 39:3-24.1 regarding motor vehicles used exclusively as farm machinery or farm implements was set forth in similar language under N.J.S.A. 39:3-24(b). Since the statutory language under consideration is to be construed within the framework of the entire enactment and its legislative history, *DeFlesco v. Mercer County Board of Elections,* 43 N.J. Super. 492 (App. Div. 1957), *Richardson v. Essex National Trunc, &c., Co., Inc.,* 119 N.J.L. 47 (E. & A. 1937), it is to be inferred that the distinctions between R.S. 39:3-24 and R.S. 393-24.1 as previously discussed, were also intended to be retained in subsections (a) and (b) of N.J.S.A. 39:3-24.

Otherwise, if farm tractors and traction equipment could be registered under the $1.00 fee provision of subsection (b), it is obvious that the $3.00 fee provisions of subsection (a) would be defeated. Such an interpretation would be contrary to the assumption that all the sections of a statute are enacted for the purpose of achieving an effective and operative result. 3 *Sutherland, Statutory Construction, op. cit.*. §4510, p. 327. In the case of *Seatrain Lines, Inc. v. Medina,* 39 N.J. 222, 226-227 (1963), our Supreme Court, quoting the rule of statutory construction set forth in *Febbi v. Board of Review, Division of Employment Security,* 35 N.J. 601, 606 (1961), said:

> "'It is a cardinal rule of statutory construction that the intention of the Legislature is to be derived from a view of the entire statute and that all sections must be read together in the light of the general intent of the act so that the auxiliary effect of each individual part of a section is made consistent with the whole.'".

Consequently, subsections (a) and (b) of N.J.S.A. 39:3-24 should be construed in context with each other so as to produce a harmonious whole.

In conclusion, therefore, we are of the opinion that farm tractors and traction equipment must be registered under the provisions of subsection (a) of N.J.S.A. 39.3-24 rather than subsection (b) of this statute.

Very truly yours,
ARTHUR J. SILLS
Attorney General
By: JAMES S. OLIVER
Deputy Attorney General

1. Motor vehicle was defined as including "all vehicles propelled otherwise than by muscular power, excepting such vehicles as run only upon rail or tracks" (L. 1921, c. 208, §1 (1, 3), p. 643; N.J.S.A. 39:1-1.)

2. In 1938, Section 20(9) of Chapter 208 was amended so that the $3.00 annual license fee applied to ". . . farm tractors and traction [machines] equipment *used for farm operations* [not equipped with rubber tires] equipped *with or without rubber tires* . . ." (L. 1938, c. 66, §7, p. 176). The effect of this amendment, of course, was that this statute now applied to *all* farm tractors and traction equipment. The reason for this amendment becomes obvious when one considers the development of rubber tires in the agricultural industry. In 1921, the great majority of farm tractors and traction equipment that was in operation was equipped *without* rubber tires. It was not until the late thirties that farm tractors became equipped *with* tires (*Smith, Farm Machinery and Equipment* (*4th ed.* 1955), p. 5). Until 1941, this was the only statute applicable to farm vehicles excepting a prior enactment in 1933 providing lesser registration fees for trucks used by farmers (L. 1933, c. 124, §§ 1, 2, pp. 261, 262; N.J.S.A. 39:3-25).

November 29, 1965

HONORABLE ROSCOE P. KANDLE, *Commissioner*
Department of Health
129 East Hanover Street
Trenton, New Jersey

MEMORANDUM OPINION – NO. 3

Dear Commissioner Kandle:

You have requested an opinion on the propriety of issuing birth certificates without charging fees therefor to persons seeking to secure Federal Old Age, Survivors and Disability Insurance Benefits under R.S. 26:8-63(a).

It is our opinion that claims for Federal Old Age, Survivors and Disability Benefits are claims for public pension within the purview of the law, and that the Department of Health should not charge fees for such birth certificates.

N.J.S.A. 28:8-63 provides, in pertinent part, that:

> "The State Registrar shall:
> "(a) Furnish a birth, marriage or death certificate without fee in the prosecution of any claim for public pension or for military or naval enlistment purposes . . ."

Our Supreme Court has defined the term "public pension" in the case of *Salz v. State House Commission*, 18 N.J. 106, 111, 112 (1955). The Court, speaking through Justice Heher, said:

> "A public pension, while not contractual in nature, is akin to wages and salaries in that it is payable in stated installments for the maintenance of the servant after his productive years have ended ***."

The Court cited with approval the Connecticut case of *Kneeland v. Administrator,*