

MAINE STATE LEGISLATURE

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STATE OF MAINE.

REPORT

OF THE

ATTORNEY-GENERAL

FOR THE TWO YEARS ENDING

NOVEMBER 30, 1906.

AUGUSTA
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effect upon their approval is not generally added to a public law unless there is some special reason or intention for it.

Section 101 of said chapter 23 as amended by chapter 115 of the laws of 1905 still requires municipal officers of towns improving State roads, so called, to make returns annually under oath to the county commissioners of their county of the amount appropriated and expended by their town in the permanent improvement, etc., upon said State roads. Although municipal officers under this section must make returns of the amount appropriated, yet to my mind this cannot read the word appropriation into said section 100 as now amended, in the face of its express removal by the legislature as above stated. The two sections (sections 100 and 101) can and do stand together and need not be in necessary conflict. Towns may receive aid if they have expended the proper amount, while the municipal officers must still make returns of the amount appropriated (which may be something or nothing) and the amount expended, etc., etc.

Of course, this opinion has only reference to the question of expenditure and appropriation; other provisions of the statute must still be complied with. For example, the expenditure must be exclusive of and in addition to the amount regularly raised in the town for highways and bridges. The amount so expended must be used before the first day of October for the permanent improvement of the roads in a manner satisfactory to the county commissioners of the county in which the said road is located. The permanent improvement shall be on a continuous portion of the road for at least one year, etc., etc. The *only* question submitted to me has been with reference to *expenditure* and *appropriation*.

STATE ROADS. PLANTATIONS INCLUDED UNDER PROVISIONS OF

R. S. Chap. 23, Secs. 99-105 inclusive, and amendments thereto.

In May, 1906, the commissioner of highways submitted to us the question as to whether or not the State road law, so called, applies to plantations.

On May 16, 1906, opinion was rendered to the commissioner of highways, as follows:

"We have examined the laws relative to your inquiries as to whether or not the State road law applies to plantations.

Revised Statutes, chapter 23, section 105, reads as follows:

"The word 'town' in the six preceding sections shall be construed as meaning cities, towns or organized plantations. Nothing therein contained shall be construed as changing the existing control of highways by counties or towns or as limiting or changing their liabilities therefor."

It would appear, therefore, as if the legislature expressly intended that plantations should receive the benefits of the State road law. Your attention, however, is called to the fact that in order to enable the city, town or plantation to obtain the benefit of the State road law certain requirements must be fulfilled. It is my opinion that such plantations as may be able to fulfill those requirements and do so, will receive the benefits provided for by such state road law.

We have not investigated the earlier statutes or all of the possible special acts of the legislature under which some of the existing plantations have been organized. In each individual case, it may perhaps be advisable to investigate into the organization of the plantation or any special acts which have been passed in connection therewith to ascertain as to all of the powers and purposes of the plantation thus acquired.

EXPENSE ACCOUNT OF STATE AND COUNTY OFFICERS.

P. L. 1905, Chap. 49. Its application to officers and members of the National Guard.

In June, 1905, the question was submitted to us by the Secretary of State under direction of the governor and council upon request of the adjutant general asking, in substance, if the law of 1905, chapter 49, requiring officers to render bills of expenses applied to commissioned officers, non-commissioned officers and other members of the National Guard.

Laws of 1905, chapter 49, as follows:

"Section 1. Every state and county officer whenever required by law to render a bill of expenses, shall itemize the same and make oath before presenting it for auditing or payment, that it