

MAINE STATE LEGISLATURE

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June 30, 1931

To General James W. Hanson, State Highway Police
Re: Parking on the highway

You request an analysis of the meaning of R. S. Chapter 29, section 75, with reference to parking upon the paved or improved portion of a way. In this section of the statutes, however, the expression is "park or leave standing". The section itself is broader than its title. It plainly refers not only to cars that are "parked" in the narrow sense of the word, viz., - cars left standing unattended, but also expressly applies to all vehicles stopped in the highway whether attended or unattended.

The first clause of the section prohibits this, - first, upon the paved, improved or main traveled portion; secondly, outside of a business or residence district; thirdly, when it is practicable to place the vehicle off this portion of the road.

In this clause the chief problem is the meaning of the word "practicable". I must say that to lay down a definite interpretation of this word is impossible. Practicable under the circumstances is what is meant. If the car breaks down and cannot be moved, an emergency is presented where obviously it is for a reasonable time impracticable to place it elsewhere, but after a reasonable time has elapsed it ought to be practicable to move the car.

Again, if beside the improved portion of the road is a terrain where a car cannot stand, it is obviously impracticable to place the car there. In such case the question would be raised as to the degree of necessity requiring placing the car in that particular portion of the highway rather than to move it longitudinally to a place where it could be placed off the traveled surface. The cause for placing the car would then become important. A break-down or other emergency would, of course, excuse some acts.

Other legitimate causes for at least a temporary placing of the car on the traveled way may readily be conceived. For instance, a business call on an owner whose property abutted the road at that place, in the absence of available parking places off the paved road in the immediate vicinity. Slight difference of fact would make a difference in the legal result. It is all a question of fact, depending on the circumstances.

The other clause of the section contains the proviso that in no event shall such a vehicle be placed unless a clear width of ten feet upon the main traveled portion of the way is left opposite the vehicle, and a clear view obtainable for three hundred feet in each direction.

I do not suppose that there is much difficulty with the detailed interpretation of these two restrictions. The bothersome problem is as to the application of the proviso. It seems to me that the proviso is a legislative modification of the word "practicable". If a vehicle is placed on the traveled way with less than ten feet clearance, or less than three hundred feet clear view in each direction, there is a burden of explanation put on the person placing the car. He would

meet this burden if he showed that a break-down or other emergency occurred which made it impossible for him to place the car elsewhere, but he would not sustain this burden if he merely showed that it was inconvenient for him to place the car elsewhere.

As a practical conclusion I should say this - if the car is placed with less than ten feet clearance or less than three hundred feet view in each direction, the person placing the car is guilty under this section, unless he can excuse himself by showing break-down or other emergency. If, however, there is a ten-foot clearance and a three-hundred-foot view in each direction, then the person placing the car is not guilty unless you can establish that it was practicable for him to place the car elsewhere,- for instance, that there was plenty of available room off the paved portion in its immediate vicinity, and no valid reason for not using it. What such a valid reason would be, as I have already said, is a question of fact on the circumstances in each case.

Instead of your last paragraph I should put it this way, viz,- no vehicle should be placed on the paved portion if practicable to place it elsewhere; the person placing the car on the paved portion would be excused if it was inconvenient to leave the vehicle elsewhere, and he procures a ten-foot clearance and a three hundred-foot view, and he would also be excused for mechanical trouble or other emergency regardless of the ten-foot clearance and the three hundred-foot view.

Clement F. Robinson
Attorney General

CFR/V