

# MAINE STATE LEGISLATURE

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STATE OF MAINE

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REPORT

OF THE

ATTORNEY GENERAL

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for the calendar years

1941--1942

It is not the duty of the person taking up his residence in a municipality of this State to act at his peril in seeking a place in which to live. The fact that he hires a house or apartment which happens to be in a "housing project", so-called, does not change his status as a citizen nor impose any restrictions on his exercising the rights of citizenship. A "housing project", so-called, where the land and buildings are owned by the United States Government and where the State has not waived jurisdiction, is not a Federal reservation of the same type as forts and lighthouses. Neither are civilian workers in shipyards owned by the Federal government or by private industry, civilian laborers working constructing and maintaining Federal fortifications and lighthouses, and civilian workers in any other Federal activity in the same status as persons in the military, naval or marine service of the United States or of this State. The former possess freedom of contract and come and go as they will, sometimes to the embarrassment of their employers it is true, but nevertheless in such fashion as to completely demonstrate that they retain their freedom of action. Such persons certainly do not fall within the classification of those who are in a certain locality solely by reason of being located here under orders from a commanding officer. The latter are by the State Constitution, for that reason, expressly prevented from obtaining the rights of residents.

The various departments of this State and the clerks and other officials of our municipalities should guide their conduct in accordance with this opinion and thereby avoid confusion.

Very truly yours,

FRANK I. COWAN  
Attorney General

From:  
The Attorney General

April 23, 1942

To:  
Henry P. Weaver, Chief  
State Police

I have your memorandum of April 18th in regard to the cooperation of Shipyard workers in the use of their automobiles. The subject is brought up particularly by the letter to you from George G. Brown, Chairman of the O. P. A. Rationing Board # 3-2, Brunswick, Maine.

I think there is nothing in the emergency that requires that we permit an absolute breakdown in our laws in regard to the operation of automobiles for hire. It seems to me that we can very easily suggest a method by which these workers can cooperate without any violation of State statutes. If Messrs. A, B, C, D and E each own an automobile and arrange that the automobile of Mr. A only shall be used the first week, Mr. B only the second week, and so on, we will have the conservation of rubber and gasoline that we desire without the problem of violation of the law regarding carrying passengers for hire.

If Messrs. A, B and C each own an automobile, but Messrs. D and E do not, it is obvious that Messrs. D and E will have to obtain transportation by some means. If there is insufficient means for transportation by public utilities in the area involved, then we can properly allow D and E to contribute a small amount to help out on the cost of upkeep and operation of the automobile of the neighbor in which they ride, although a fixed charge by the neighbor, even though it is based on the operation and upkeep, will be a violation of the law. In other words, Mr. A cannot let it be known that he will transport workers for a certain amount. The minute he does that he is competing with the public utilities companies. If, however, he gives a neighbor a lift and permits the neighbor to help out by buying some gas or some oil there can be no objection.

If there is adequate public utility transportation service to take care of all workers who have not automobiles of their own, then any cash payments for transportation made to persons not holding public utility licenses will be a violation of the law. We get down to the question of whether or not, as a matter of fact, there exists in the various areas to which this problem applies sufficient means of transportation by licensed carriers so that there is no necessity for private individuals going into the bus business. Where emergencies exist we must recognize them and apply the law accordingly. Where no emergencies exist we must insist on a strict compliance with existing statutes.

We must be sure that we do everything possible to further the war effort, but at the same time we must insist that the war effort shall not be used as an unnecessary excuse for breaking down our governmental structure which has been built up through many years of effort and the chief object of which is to better protect the rights of the people of the State as a whole, and also protect the rights of the private individual. It is not every time that a person demands a waiver of the law on the ground of a public emergency that such waiver is justified. If there is a method of procedure that will take care of the situation that arises and at the same time will not permit any relaxing of our enforcement of existing statutes, that is the procedure we should follow.

FRANK I. COWAN  
Attorney General

April 24, 1942

William B. Mitchell, Secretary  
Business Men's Association, Inc.  
Old Orchard Beach, Maine

Dear Sir:

I have your letter of April 8th in regard to daylight saving time. Under the limitations of R. S. Chapter 91, Section 82, the Attorney General is not permitted to give official opinions except to the State