

# 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

1943--1944

by the Court, since the offender would be entitled to his immediate release if he was committed and such payment was made by him at the jail, although I think that it would be good policy for the probation officer to inform the Court that the offender is tendering the payment of the fine after the time fixed by the presiding judge and obtain its approval for the action.

ABRAHAM BREITBARD

Deputy Attorney-General

November 13, 1944

Daniel T. Malloy, Chief Warden    Dept. Inland Fisheries and Game

*Subject: Bona fide resident of a city or town*

I submit herewith answers to the questions you have proposed with relation to the above subject. In order to make the same clear, I am, in this memorandum, quoting your question in each case and then following it with my answer.

1. Mr. A who has been a legal resident of Portland for several years moves to Augusta on September 28, 1944. On October 2, 1944, he applies to the Augusta City Clerk for a resident hunting license.

- (a) Is he a bona fide resident of Augusta on October 2nd, upon satisfying the city clerk that the questions following are answered in the affirmative?
- (b) To identify himself to the City Clerk as bona fide resident of Augusta, must Mr. A make one or more of the following declarations:
  - 1. That he has permanent employment in Augusta and intends to reside there indefinitely.
  - 2. That he has rented or bought a home in Augusta.
  - 3. That he has moved his family to Augusta.

*Answer.* The applicant would be entitled to a hunting license at Augusta, if the city clerk was satisfied that he was "bona fide" (in good faith) a resident of Augusta at the time of such application. The fact that he had resided there less than three months is immaterial, providing he was a "bona fide" resident of *the State* for "3 months next prior to his application for a license."

The inquiries under (b) would be pertinent in determining the question of bona fide residence. See §§40 and 41 of Chapter 38, P. L. 1943.

2. Mr. B moved from Boston, Mass., to Bangor, Maine, on January 15, 1944. On April 20, 1944, he applies to the Bangor City Clerk for a resident fishing license; he is refused same because he cannot show a poll tax receipt for the preceding year and holds no State of Maine motor vehicle operator's license for the current year. (Ref. to par. 9 of sec. 19)

- (a) As this man was not required by law to pay a poll tax in this State for the preceding year, does this poll tax provision apply in Mr. B's case? Must he show a Massachusetts Poll Tax Receipt for 1943?

*Answer.* This applicant would be entitled to a license without pro-

ducing a poll tax receipt. Section 19, Clause 9, of this chapter applies only to "persons required by law to pay a poll tax *in this state*." . . . It would not be essential that he produce a poll tax receipt for the preceding year from Massachusetts. Such a receipt, however, would be some evidence that he resided in another State and was therefor not required to pay a poll tax in this State.

3. Paragraph b of section 40 provides that: "For the purposes of this chapter all aliens shall be classified as non-residents except that any alien who has lived in the State continuously for 2 years and in addition thereto pays a tax on real estate in the city or town in which he resides, may purchase any resident license under the provisions of this chapter."

- (a) Mr. and Mrs. C, British subjects, have lived in Waterville for four years; in 1942 Mr. C purchased real estate in Waterville; in 1944, Mrs. C applied for a resident hunting license and was informed that she was not eligible to procure a resident license as she did not own and pay taxes on real estate in the town where she resided.
- (b) If Mr. and Mrs. C owned this real estate jointly would both be eligible to procure resident hunting and fishing licenses?
- (c) If Mr. and Mrs. C have children, also foreign born, what is their status in regard to hunting and fishing licenses?

*Answer.* (a) Mrs. C would not qualify and would not be entitled to a resident license under §40, par. (b), since she would pay no tax on real estate, the title being in her husband only.

(b) Mr. and Mrs. C would be entitled to a resident license, since the real estate would be taxed jointly.

(c) The children of Mr. and Mrs. C would not be entitled to resident licenses until they became citizens.

4. Are license agents justified in refusing to issue a hunting license to any persons whom for any reason they consider incompetent to handle firearms, particularly children 10 to 12 years of age?

For example, a child 12 years of age, deemed unfit by license agent to handle firearms makes application for a hunting license and presents written permission from his parent to obtain same. (See 41-6.)

*Answer.* Yes. The licensing agent may exercise his discretion, when he is satisfied that the child is incompetent and would endanger his own life and that of others.

ABRAHAM BREITBARD

Deputy Attorney-General