

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1945-1946

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Section 317 provides for free licenses to Indians over 18 years of age of both the Passamaquoddy and Penobscot Tribes, to fish, hunt and trap, upon presentation to the Commissioner of a certificate of the Indian Agent of these respective tribes that the applicant for the license is a member of that tribe.

Provision for free hunting and fishing licenses to members of these tribes is made by Section 32, Subsection 9 of the Inland Fish and Game Laws enacted in 1945 (the Eighth Biennial Revision.)

Doubt as to the right to a free license to trap has arisen because of the omission in the Inland Fish and Game Laws of a free license to trap.

While in the previous biennial revision of the Inland Fish and Game Laws (Laws of 1941 and 1943) the Revisor had incorporated what is now Section 317, it was never considered to be a part of the Inland Fish and Game Laws. It was incorporated in such revisions for reference only.

The repealing clause of Chapter 374, P. L. 1945, which enacted the present laws relating to Inland Fisheries and Game, does not repeal Section 317 of Chapter 22 of the Revision of 1944, either expressly or by implication, and hence that section remains unaffected; and under that section of the statute Indians belonging to either of those tribes and over 18 years of age would be entitled to free trapping licenses, if they meet the other requirements.

ABRAHAM BREITBARD
Deputy Attorney General

January 29, 1946

To Robert B. Dow, Esq.

. . . The paragraph of my letter which you quote is based on Section 1 of the amendment (Chapter 44, P. L. 1945), which provided for revocation of the prior vote to employ a town manager, at any legal special town meeting held at least sixty days before any annual town meeting. Such a vote would rescind and annul the force of a previous vote to hire a town manager; and since the only requirement was that the vote to revoke be held at least sixty days before an annual town meeting, there could be no objection to holding it more than sixty days before such meeting.

The vote abrogating the earlier one would become effective as soon as the result was announced at the town meeting, and the result would be that at the annual meeting following, the selectmen would have no authority to hire a town manager, unless after the insertion of an article in the warrant authorizing the selectmen to hire a town manager and the passing of such vote again at the annual meeting.

It is an endless thing. Answering the last inquiry in paragraph one, I would say that the existing vote authorizing the employment of a town manager now in force would not require any further vote thereon at the annual town meeting; but as to whether the selectmen could with propriety disregard the existing vote on the subject and not employ a town

manager, that is something for which they would be answerable to the inhabitants of the town. They would, in effect, not be carrying out the wishes of the voters of the town, as the result would be the same as though the inhabitants had affirmatively voted for the employment of a town manager and the selectmen had ignored the vote. It is all a question of whether the selectmen can justify their non-action in that respect. . .

ABRAHAM BREITBARD
Deputy Attorney General

January 30, 1946

To Honorable Guy H. Sturgis, Chief Justice

I received your letter of January 28th requesting me to direct you to the authority, if any, for making bonds of clerks of courts payable to the Treasurer of State instead of the State of Maine, which you state in your letter seems to have been the practice of some surety companies and is said to be pursuant to advices from this office.

I find no authority in the statute for bonds of clerks of courts being payable to the Treasurer of State, and I can find no ruling in this office to the effect that bonds of clerks of courts should be payable to the Treasurer of State instead of the State of Maine.

It seems to me that Chapter 5, P. L. 1945, is the last word on bonds of clerks of court. This provides that they shall each give a surety bond to the State, etc., in amounts and forms approved by the Chief Justice.

It is my opinion that all bonds of clerks of courts should be made out to the State of Maine and deposited with the State Auditor after the amount and form have been approved by the Chief Justice. . . .

RALPH W. FARRIS
Attorney General

February 1, 1946

To Lucius D. Barrows, Chief Engineer, State Highway Commission
Re: Anticipation of Future State Aid Allotments by Towns

I received your memo of January 18th relating to a letter received by you from Frank L. Whitney of Surry, who is interested in the construction of the Newbury Neck road in Surry.

Since I received your memo, Senator Noyes of Franklin and Mr. Whitney have been in my office and I talked with you on the telephone while they were present in my office. I then advised Senator Noyes and Mr. Whitney what my ruling would be in this matter.

You state in your memo: "You will note that Mr. Whitney proposes that the town finance the construction of this road as a state aid highway and then have its notes gradually paid off by reimbursements from the