

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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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

state aid joint fund as it becomes available annually. The Highway Commission would like to go along with the town on this proposition as they have in the past on similar but less extensive situations."

On this basis the Commission asked my opinion as to whether it would be permissible under the present laws to use State Aid funds to reimburse a town for expenditures made in previous years in constructing a State Aid highway.

My answer to this question is in the negative. You will note the limitation on the consent of the State Highway Commission in Section 109 of Chapter 20, which limits the consent to any time preceding the commencement of the fiscal year for which such appropriation is made. In my opinion this would not run beyond the legislative session. . . .

Mr. Whitney and Senator Noyes seemed to be satisfied with my ruling, and I understand they are going to take the matter up with the legislature, as a basis for post-war planning legislation.

RALPH W. FARRIS
Attorney General

February 1, 1946

To David H. Stevens, State Assessor

Re: Taxation of Horses

I have your memo . . . relating to the interpretation of Paragraph 4, Section 13, Chapter 81, R. S. 1944, relating to the taxation of horses located in a town, the owner living in an adjacent town. You state that these horses are located in the adjacent town and remain there until they are sold, and the word "temporary" causes a great deal of worry and trouble in your department and you wish that clarification be made of this.

Primarily, the horses shall be taxed on the first day of April in the town where they are kept; but when the horses are in any other town than that in which the owner or possessor resides, for pasturing or any other temporary purpose, on said first day of April, they shall be taxed to such owner or possessor in the town where he resides. The two words "temporary purpose" should take care of the whole situation, because in this case in your memo the temporary purpose was for the sale of the horses and they should be taxed to the owner or possessor in the town where the owner resides.

RALPH W. FARRIS
Attorney General

February 1, 1946

To John C. Burnham, Administrative Assistant, SHC

I have your memo . . . asking my opinion on the following matters:

1. "In accordance with the provisions of Sec. 18, Chap. 19, R. S. 1944, can a motor vehicle be registered for transporting a load upon the highway if the vehicle and load exceeds 40,000 pounds providing the load is transported under a permit from the State Highway Commission?"