

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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The purpose of Section 218-C was to protect the teacher who was employed prior to July 1, 1924, and who continued in such employment after the effective date of this act and then withdrew before she became eligible to a pension. Upon her re-employment and upon making the contributions during the period she was absent, including the contributions withdrawn, she could then qualify for any of the pensions provided she accumulated the years of service to make her eligible for such pension.

I believe this to be the clear intention of the legislature. To rule otherwise would be to hold that the State was embarking on the annuity insurance business on a premium basis, rather than creating a pension system as a reward for services rendered to the State for the prescribed periods of 25, 30 and 35 years.

I therefore advise you that no teacher is eligible under this section for a pension other than one who was in the service prior to July 1, 1924, and withdrew from the service subsequent to July 21, 1945.

ABRAHAM BREITBARD
Deputy Attorney General

September 26, 1946

To Lucius D. Barrows, Chief Engineer, State Highway Commission

In reply to your memo of September 23rd, this department advises you that the liability of the State for damages in connection with the construction or repair of highways is prescribed by statute and the limits thereof are fixed by Chapter 20, Section 15, which allows the assessment of damages for any injury to the owner of adjoining land, where such damage is caused by the altering, widening, or change of grade, and the procedure for assessing the damages is prescribed.

Evidently, Mr. Berman was under the impression that funds are allocated by the Federal and State Governments to take care of such damage as he describes, namely, the interruption of business, spoilage of food, loss of profit, payment of rent, etc., by the owner of a diner located adjacent to the highway under construction.

These items are not an element of damage under the statute. . .

ABRAHAM BREITBARD
Deputy Attorney General

October 1, 1946

To Laurence C. Upton, Chief, Maine State Police
Re: Maine Turnpike Authority

I have your memo of September 24th, calling my attention to the provisions of Section 11 of Chapter 69, P. & S. L. 1941, relating to the Maine Turnpike Authority. You state in your memo that you understand that at least a part of this toll highway will be open for travel during the next two years, and that you have accordingly made provision in the State

Police budget for what you consider sufficient money to provide men to police this road. However, you feel that there is one question which the budget committee is sure to ask and that is whether or not the Turnpike Authority will be required to reimburse the State for the police services, and you ask my opinion as to whether the expenses for policing the turnpike are to be borne by the State or by the Turnpike Authority.

I quote from the last paragraph of Section 11, subsection (a):

“The Authority may utilize the services of the state police to enforce the rules and regulations of the Authority with respect to tolls, volume, weight and speed of traffic, and with respect to such other matters of enforcement as it may in its discretion require.”

From the language of this statute just quoted, it is not mandatory upon the Authority to utilize the services of the State Police; and in view of the fact that all charges and costs for other services by the State Highway Commission are to be paid by the Authority, I am of the opinion that it was the intent of the legislature that the State Police should be reimbursed by the Turnpike Authority for any services which it may in its discretion require of the State Police.

RALPH W. FARRIS
Attorney General

October 1, 1946

To W. C. Philoon, Administrative Assistant, Executive Department

The creation of municipal corporations and the manner of administering the same, the officers to be chosen to administer the affairs of the corporations, and all the other details necessary to run the affairs of the corporations are the subject of legislative action.

The Governor of the State is not vested with power to set up a system of government for municipal corporations.

ABRAHAM BREITBARD
Deputy Attorney General

October 2, 1946

To the State Highway Commission

Mr. Church left some correspondence here with relation to dead trees on the Rogers Road in the town of Kittery. Evidently the selectmen of that town are of the impression that the duty devolves on the State Highway Commission to remove these trees.

It seems to me, however, that this situation is governed by Section 22 of Chapter 84, which imposes the duty on towns and the abutting owner.

ABRAHAM BREITBARD
Deputy Attorney General